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**HAZARD'S**

136

# **REGISTER OF PENNSYLVANIA,**

DEVOTED TO THE

**PRESERVATION OF FACTS AND DOCUMENTS,**

AND EVERY KIND OF

**USEFUL INFORMATION**

**RESPECTING THE STATE OF PENNSYLVANIA.**

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**EDITED BY SAMUEL HAZARD.**

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**VOL. XIV.--FROM JULY 1834 TO JANUARY 1835.**

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# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 1.

PHILADELPHIA, JULY 5, 1834.

NO. 339.

From the Kittanning Gazette.

## INTERESTS AND CAPABILITIES OF ARMSTRONG COUNTY.

No. 1.

This is a subject upon which we have often reflected, and upon which a great deal might be said: and we know that in attempting a few numbers upon it, we are assuming an arduous task; but if any hint or suggestion which we may throw out will have a tendency to promote the welfare and prosperity of the community upon whose patronage we depend, we shall be better pleased than if we had gained a "glorious victory" in politics.

The elements of prosperity are twofold—moral and physical. By moral we mean that intelligence and mental energy that prompt to exertion, blended with that virtuous principle which directs that exertion to a proper object—that while it pursues its own interests is also careful to promote, or at least not to injure, that of others. By physical we mean the advantages that nature has furnished, such as location, climate, soil, &c.

It is in vain that nature bestows her gifts upon a country, if the inhabitants are unenlightened in mind, selfish in principle, and vicious in habits. Instead of a general diffusion of the blessings of Providence, they are monopolized by the avaricious, neglected by the careless, and perverted by the vicious. We are morally bound, as members of a community, mutually to sustain one another, and to abstain from every thing calculated to impair or retard the prosperity of the community of which we are members.

Some men so conduct themselves that every thing in which they engage tends directly to the advancement of the general prosperity, and while they enrich themselves, they benefit others; and there are other men whose business, influence and example, check rather than promote the public weal.

Nothing so much promotes the prosperity of a community, as a general disposition to encourage and sustain each other. Suppose A is a farmer, B a hatter, and C a shoemaker. A buys hats and shoes that were manufactured in a distant city, and to which he cannot possibly send the produce of his farm; B makes his own hats, but he sends to a distance for his flour, and meat, and shoes, where he cannot hope ever to vend his hats; C makes his own shoes, but he forgets that he ought to encourage his neighbor the hatter. Now, how will they come out? It is easy to answer that question—they will all become poor together.

So long as the farmer has to look at home for his principal market, it is his interest by all means to patronize the mechanic at home; for in this way he will increase his own market. When the farmers here shall be able to vend their hay, and grain, and flour, and meat, and butter, and eggs in the city of Philadelphia, then, and not till then, should they purchase their hats, and shoes, and leather, and saddlery, and trace chains, and ready-made clothing, and newspapers there.

Let the farmer and the merchant support the mechanic, and the mechanic will be able, in return, to give both a little money. The protection of home industry is as necessary in small communities as in large ones. In all conscience there is enough to send off to

a distance for, without going to those articles the production of which is the exclusive business of nineteen-twentieths of our population. "But we can get them cheaper abroad than at home," is the reply. Perhaps so; but the wretched policy against which we are arguing, is the cause of this difference. The farmer, by purchasing too much of the manufactures of distant places, and too little of those produced at home, compels the mechanic to do so little business, that in order to have a sufficient profit to maintain himself he must sell at higher prices than his wealthy and better encouraged competitor of the city. Again—the mechanic forgets that his fellow mechanic needs his patronage; and the merchant forgets that in bringing many articles of his traffic, he is tying up the hands of some of his customers, and putting it out of their power to procure many other articles equally profitable to him, and essential to the comfort and well being of their families. It is a practical illustration of the fable of the goose that laid the golden eggs.

It is in this, more than in any public improvement, more than in the fine natural streams we possess, that the true interests of Armstrong county consists. Were all the mechanical productions needed and used in this county, made in it, it would add one fourth to our present population; it would keep thousands of dollars in circulation amongst us, which are now sent off, never to return; the farmer would have a home market that would encourage him to make greater exertion; and the merchant would have more and better customers.

But among all the checks to the march of improvement, both moral and physical, the use of ardent spirits is the chief. They are expensive; but they yield no return but folly, degradation and wretchedness. We do not believe, however, that the people of this county are more addicted to the use of this article than those of other counties; yet if it were possible to estimate the money sent out of it for ardent spirits, since its first settlement, the amount would be startling. But this is not the worst.—There are melancholy evidences of its baneful effects, in idleness, quarrels and litigation—in neglected and dilapidated farms and dwellings, in poor tottering, trembling ruins of humanity, and sometimes in premature death. But as we did not set out to write a temperance lecture, we will merely hazard one opinion—that were the population of this county universally to cease using this article, we would witness its happy effects in an immense increase of wealth, comfort and happiness.

After all, the county is prospering, and the balance of trade is at this moment, and always has been, in its favor. So it is; but is not half as much as it might be. In a new, fertile, growing county like this, there is nothing to prevent the balance of trade being two to one in its favour.

—  
No. 2.

In our last number we dwelt mainly on what might be called the *tariff* of the county; we come now to speak of particular branches of industry.

In order the better to introduce these, we will take a hasty glance at the natural peculiarities of the county, to show what variety of material there is to work upon.

The most prominent and important feature is the noble river which traverses its entire length, giving an easy, cheap and safe access to market; beautifying and enlivening the country; and to which the eyes of the nation are now directed, as the most eligible route by which to unite, by an unbroken navigation, the great East with the great West. In addition to the Allegheny, we have the rivers Kiskiminetos and Clarion, both large and important streams. Redbank and Mahoning creeks, both navigable from beyond the boundaries of the county, pass through rich and well timbered sections, and annually bear to market large quantities of lumber. Besides the five large streams just spoken of, there are innumerable smaller ones, suitable for water power to a greater or less extent.

The soil of this county, though various, averages well—much of it is very good. The timber is of every description known to this section of the Union. As an article of trade, the white pine, which abounds chiefly in the north-eastern portion of the county, stands foremost, and is now sawed and carried to market in large quantities by Clarion, Redbank and Mahoning. Oak, of the first quality, and of every variety, abounds in all parts of the county. Maple, of every variety, is also abundant, and of large and fine growth; and the same may be said of poplar, hickory, chestnut, walnut, and cherry. The whole face of the country, where unimproved, is covered with a very heavy growth of timber.

Mineral coal abounds more or less in all parts; limestone is plenty; and iron ore exists in exhaustless quantities in many parts.

In a word, no county in the commonwealth excels this in the *variety* of its natural advantages. Some do excel it in fertility of soil, others in pine timber, and others, perhaps in some of the mineral treasures; but here all these advantages meet, and meet in good proportion. The more we reflect upon it, the more we are convinced that Armstrong county is destined to become the seat of a great variety of pursuits; and that many things which are now regarded as of little value, will ere long prove to be the main elements (in the hands of skill and industry) of its growth and prosperity. But we hasten to particulars.

The salt and iron business of the county are too well known to require any particular mention being made of them. The enterprising proprietors are entitled to great credit, and they have unquestionably promoted to a considerable extent the general good; yet, perhaps, they are less conducive to the prosperity of the community than many other branches of industry, less expensive, less precarious, but in which the people could more generally participate.

We called the attention of our readers some time ago to the subject of *Potash*, and we will again express our unalterable conviction that our farmers and others are not acting wisely in permitting this opportunity of profit to go unimproved. This county is now better adapted to this business than it will be at any future day, though perhaps not so well as it was in times past,—simply because the *material* is every year becoming less abundant—the wood that might be turned to a good account in this way is rotting. The process is as simple as that of making maple sugar, viz: The ashes are procured by burning the otherwise worthless wood in clearing land—the more burnt on one spot the better;—they are then put into hoppers, and the ley run off in the ordinary manner; and this ley is then boiled down until it becomes a thick, tough, black-looking substance, called black salts. Here the farmer should stop, for these black salts command a ready market in Pittsburgh, at 2½ to 3½ cents per lb. Now who that has land to clear could or would not do this, when he finds that the very brush he burns may be converted into cash? In the Western Reserve and the northern counties of this state, the farmers realize as much from the profits of this business as pays them for clearing

and fencing their lands. They cut down all the trees, and what they do not want for rails, firewood, &c. they immediately reduce to ashes for this purpose; thus thoroughly clearing their land at once.

*Staves and heading* are good articles of traffic, and might be furnished in much greater quantities than they now are. Splitting these might very profitably fill up such time as the weather will not admit of out-door work.

*Turned stuff*, of many kinds, might also be furnished in large quantities, and be profitably disposed of on terms that would ensure its ready sale down the river; the necessary timber being so abundant, convenient and cheap.

*Corn Brooms* are another important article of trade, of which this county might as well furnish some thousands as not. One great advantage that the farmers would enjoy would be, the raising of the material as well as to supply with the common necessities of life those engaged in their fabrication. This is one of those kinds of business that, in order to be profitable must be properly established, and carried on to some extent; but it would be by no means expensive, and if well managed, could not fail to be profitable.

*Boat Building*.—On a fine river, in the midst of abundance of excellent oak timber, and convenient to the canal, what is there to prevent our having yards for building canal and other boats? They are in demand—the business might be commenced at a trifling expense—timber is cheap, and if a steam saw mill should be necessary, coal is cheap. This would bring into market considerable timber which is now of but little value; it would give employment to some, it would afford a market to others, it would bring money into the country, and in short, it would benefit all.

*Plough-making*.—A large number of ready made ploughs have heretofore been brought to this county from Pittsburgh and elsewhere; but we think an effectual stop has been put to this outlet by Mr. F. Dobbs, of this borough. He has commenced the business vigorously, and is able to supply more ploughs, wagons, &c. than the county requires. His shop is already ranged round with ploughs ready for the glebe. We were in yesterday looking at an implement of husbandry called a “cultivator,” which we think must be a most invaluable article for dressing corn, and, if we mistake not, in seeding instead of the harrow.

The elements of extensive business are around us, and all that is wanting is the enterprise to seize them and convert them into almost every article of necessity, convenience or comfort, to make this county teem with articles of trade. We would here once more enforce the truth, that to enable the manufacturer of any article to vend it low, he must produce a large quantity; and it matters not how trifling the article may be in itself, if the quantity be sufficiently extended, it will produce a large income. One of the most extensive and expensive establishments in the world is the *pin* manufactory of London; but they turn out from twenty-five to thirty millions of these little articles per day. So it is in every thing. *To do a little* at any thing of this kind is a poor business, but there is no saleable article, however trifling in itself, the fabrication of which will not be a good business if sufficiently extended. A large business may be done in making horn buttons or turning shaving boxes—both of which might be done here as well as not. Why need we always be dependent on the yankees for these little articles? The answer will be—“they can furnish them cheaper than we can make them.” Perhaps this is true; but as there is no truth without some reason for it, let us inquire into it. In the first place, a yankee will not attempt to do any thing until he has every thing in good order for it—his implements and machinery are of the best kind.—If he undertakes to make window-sash he will not think of getting out his stuff with a handsaw; if he sets about making

corn-brooms, he will not shave out a handle with a drawknife, nor boil the stems of the corn in a tea-kettle, nor compress it with a rope hitched to a joist; but he will buy his handles from those whose business it is to make them; he will have a steamer to soften the stems, and a proper apparatus for compressing them. In the next place, a yankee confines himself to one branch—the man who turns shaving-boxes does not meddle with bed-posts, and the man who makes gridirons don't shoe horses. And again—whatever may be his business, he does not wait for orders for his work, nor get frightened if a few dollar's worth accumulates on his hands. In these three reasons is the cause to be found why articles of yankee fabrication are so low.

So much for what might be done here—now for an example of what has been done in another county just about like this.

COLUMBIA, Pa. May 31.

“**VALUABLE CARGO.**—An ark arrived at this place a few days ago, loaded with 5000 rakes; 600 bench screws; 120 bedsteads; 1000 hoe handles; 1000 cradle sheaths; 2000 window blinds, and 12 or 15,000 slats for Venetian blinds. These articles came from the manufactory of Mr. Edward L. Paine, of Bradford county, Pa., and reflect much credit on the enterprise of that gentleman. In addition to the above, we were told that on the passage down the river, about 2000 rakes, 1000 blinds, 500 screws, and 25 bedsteads, were disposed of.—When the ark left Bradford county, the cargo must have been valued at between two and three thousand dollars. It will proceed to Baltimore.”

(To be continued.)

From the Chester County Whig.

#### REVISION OF THE LAWS.

It is known to all that this interesting and important work has been going on for some years past under the sanction of our Legislature, and is not yet completed. The full extent and importance of the subject is not, however, perhaps, as well known. The ever varying features of society, increase of population and wealth, new objects of industry and enterprise, the advance of knowledge, and the discoveries of experience required this enterprise at our hands.

It is not the policy of a free government that the Laws should be placed upon pillars so high that the people cannot read them, and too much care cannot be taken that all great changes be fully promulgated.

*Misera est servitus ubi lex est vaga aut incognita.*

Neither should these changes be made without due care and consideration. It is an essential characteristic of a republican government, that the great mass of our Legislators should be more occupied with other things than with the law. They have attained to a point in true wisdom—when they make the discovery that the peculiar business of framing, shaping and modifying the rule of action should be confided to those whose especial business it has been, all their lives, to study, understand it, and apply it. Under such happy influences our Legislature appear to have acted in establishing a commission for this object. It was a similar wisdom which produced the perfection of the Civil Code, and has given to the code Napoleon its just celebrity and high authority. With the same views have the Parliament of Great Britain recently put in requisition the best talents and the greatest learning of the kingdom to revise their Laws, and we have an example nearer home in the successful result of the revised code of the State of New York, accomplished by the joint labour of some of their most distinguished professional men.

The more immediate object of this article is to call public attention to our own Commission in Pennsylvania, and the character of their labors so far as developed.

It has always been a source of congratulation with the profession and should be known to the people, that this work is in good hands.

At the head of it is a gentleman who has been for nearly half a century distinguished in the law, was a District Attorney of the United States, under Washington; belongs to that very class who made the difficulty to puzzle a Philadelphia Lawyer proverbial, is intimately acquainted with the early history of the state, has been in active business all his life, and for his high integrity, sound judgment, great learning and unrivalled equanimity always enjoyed the confidence of the public. Associated with him are, first, a gentleman of classical attainments, an accomplished writer, a man of great industry, and habits of investigation, and a taste for legal studies, who was well and extensively known as the author of a Digest of our Reports which has been compared by some to the inimitable Digest of Comyn; next, a younger man in the profession, but whose promise of usefulness is at least equal to any other man of his age in the State, and whose good sense, acknowledged attainments and indefatigable labour, are only surpassed by his unobtrusive deportment.

The result of the joint efforts of such men upon such a subject, cannot but be highly interesting to the public.

Some great and important changes in our Laws, recommended by them have already received the sanction of the Legislature. These should be more extensively and thoroughly known, and it is believed the information will not be entirely out of place in the columns of a newspaper printed in the country. Having called public attention to the subject, it is proposed to give a condensed view of the labors of our Revisors.

The first Report of the Revisors was made to the Legislature on the 2d of February, 1831, and was accompanied by two bills; one relating to Registers and Registers Courts, and the other to the Orphans' Court.—These bills were prepared in consequence of an express direction by the Legislature to transmit them at that session, and relate to a branch of the law which preeminently required revision. The principal improvements introduced by the first mentioned bill are:

1st. The provision forbidding foreign executors and administrators from intermeddling with the assets of deceased persons in this State, unless they obtain authority for the purpose from the proper Register here, and give sufficient security. This is the rule in every other state, and it is due to our own dignity, and to the safety of our citizens that it should be the rule here.

2d. It is made a misdemeanor to conceal or withhold a will after notice to produce it. This is also a salutary addition.

3d. The old rule that the executor of an executor succeeded to the care and management of the estate of the original Testator is abolished, and it is provided that whenever a sole or surviving executor shall die, an administrator *de bonis non*, &c. shall be appointed. This is believed to be a decided improvement. Men choose executors to their wills from their personal knowledge of, and confidence in them; and few persons suppose when so doing that they delegate to their executor the power of appointing his successor, and in like manner in case of the death of that successor, without any security being given for the faithful execution of the trust. Such however has always been the law. Now the authority ceases with the death of the first executor, and after him no person can be intrusted with the assets unless he give adequate security.

4th. Minors are no longer allowed to be executors or administrators. So important a trust as this often is, ought not to be in the hands of persons whom the law considers incapable of managing their own concerns. But where a minor is by Will appointed an executor, or where he happens to be the person entitled

to the administration, his guardian is authorized to act as administrator during the minority.

5th. By the old law, Registers were directed to take security on granting letters of administration, but no means were pointed out of questioning the sufficiency of the sureties, or of obtaining additional security, in case that taken should be insufficient. This defect in the law was remedied, and other improvements made.

The bill relating to Orphans' Courts embodied a great number of provisions scattered over the various volumes of Acts of Assembly, and reports, and arranged them in a systematic and convenient form. Some valuable improvements were introduced, a few only of which can here be stated.

1st. One of the most important sections of the bills is that which places the decrees of the Orphans' Court upon the same footing with the judgments of the other Courts. It is strange, but true, that for a long time, the Orphans' Court, high and important as was its jurisdiction, was looked upon as an inferior tribunal, a sort of *pie poudre* Court, whose decrees were entitled to just so much weight as in the opinion of the tribunal before which they collaterally came, they were entitled to, and no more. The consequences of which were very inconvenient for executors and administrators, and all others whose cases lay in that Court. No sufficient reason existed in the constitution of the Court for the discrimination, since it was composed of the same Judges as the Common Pleas, though probably, the incautious or inconsiderate manner in which the business of the Court was conducted at some times and in some counties, produced particular cases of hardship or injustice, which induced the other Courts to permit persons injured to inquire into the regularity of the proceedings. The Revisors appear to have endeavored in this bill to prevent injustice being done, either to parties brought before the Orphans' Court or to persons who might be affected by their proceedings, by the introduction of a system of provisions, securing notice, and giving due time to all persons, and by the establishment of a safe and efficacious system of process and practice. With these precautions the bill proposed to give that validity and conclusiveness to the judgments of the Court, which are necessary to its respectability and usefulness.

2d. Some new provisions of value and importance, relative to the settlement of the accounts of executors, administrators, and guardians, will be found in this bill. It is believed that many widows and orphans will have reason to be thankful to the Legislature for the protection given to their interests, in the prevention of frauds, both in respect to the settlement of the accounts of executors, administrators, and guardians, and to the case of applications for the sale of real estate.

3d. In the instance of married women, whose real estate has been converted into money, by virtue of proceedings in partition, it has often been lamented by our best Judges, that there were no means of preventing the money going into the hands of dissipated or careless husbands, to the probable ruin of the wife and children. In this bill an effectual mode was adopted to remedy this evil without impairing the established rights of husbands.

4th. The proceedings to obtain a partition of the real estate of a decedent, which under the existing law were fruitful of doubts and embarrassments, by this bill were methodized and improved.

5th. The process and practice of the Orphans' Court were placed upon a footing, which will enable that tribunal to administer justice with all the advantages of a Court of Chancery, with the addition of some of the powers of the common law Courts.

These bills were not acted upon by the Legislature at that session, but at the session of 1831—2, they were both passed into laws with some few alterations.

The 2d Report of the Commissioners was presented

to the Legislature, on the 5th of March, 1832. Besides a "Report in part, on the subject of the Statute Law, generally, and the administration of Justice," it was accompanied by three Bills,

1. A Bill relating to last Wills and Testaments.

2. A Bill relating to the descent and distributions of the estates of Intestates.

3. A Bill relating to Executors and Administrators.

It will be seen from the titles of these Bills that they were connected with those which accompanied the first Report, and involved questions of great interest and importance.

1. In the Bill relating to Wills and Testaments, some material alterations were made. By the existing law almost any scrap of paper passed for a Will. Neither signing, nor sealing, nor attestation was required. The consequence was great uncertainty with respect to intention. Papers left by a man in his writing desk, might after his death be set up as a Will, although the Testator might have had very different designs. The Bill of the Revisors which requires that every Will shall be *signed* by the Testator at the foot thereof, or by some one in his presence and by his express direction, unless he be prevented by the extremity of his last sickness—was calculated to prevent the recurrence of such cases without exacting a compliance with the onerous forms required in England, and some of our own States.

The Bill as reported by the Revisors also settled the Law respecting the *age* at which Wills may be made.—By the common Law it seems to be uncertain at what age a Will of personal property may be made by a minor, some writers fixing one time and some another. In this Bill the age of 18 was fixed as being in accordance with the best opinions. The Legislature, however, seem to have thought it best to take away from minors all power of disposition by Will, and altered the Bill so far as to establish the age of 21 years as the *period of competency in this respect*.

The power of married women to make Wills which also was the subject of doubt, was by this Bill settled on what is thought to be a *just and reasonable footing*.

Another important alteration consists in the provision that words of inheritance as "heirs," &c. shall no longer be necessary to pass a fee simple in Wills. Heretofore, if a Testator omitted these words, the courts held that the devise took only a life estate, which, in most instances defeated the intention—inasmuch as few testators are aware that it is necessary to use any other expressions in giving a house than a sum of money. Since the passage of this Bill, if a man intends to give an estate *for life only*, he must say so, *otherwise the devise will take a fee simple*.

A similar alteration has been made in the law regarding real property acquired after the date of a Will.—If a man made a general devise in his Will, giving all his real estate to A and after the date of his Will acquired other real estate, the law held that this after acquired real estate would not go by the Will to his devisee, even though he should devise all the property he might possess at the time of his death. The Bill of the Revisors altered the law in this respect, and made it more conformable to the common intention. Other amendments were made in the law by this Bill, which there is not room to notice.

2. The Bill "relating to the descent and distribution of the estates of Intestates," contained few positive alterations in the law, but possessed considerable advantage over the existing acts in method and perspicuity. The Intestate Laws of 1794 and 1797, have been the subject of frequent complaint with lawyers when called upon to give opinions respecting their true construction. If it was difficult for the lawyers, who are trained to point out the meaning of acts of assembly, how much more for laymen, to ascertain the course of descent. The arrangement and classification of subjects in the bill reported by the Revisors will leave little room for doubt in any future case. One alteration of some mo-

ment was made in the law, viz: a provision that there shall be no representation admitted amongst collaterals after brother's and sister's children. This was intended to save the expense, delay and trouble which often occur in hunting out remote collateral relations, and from which it has often happened that estates have remained unsettled for many years. The provision is not new. It is found in the laws of England, and of many of our states, and was the law of Pennsylvania from 1705, when it was introduced into the act passed at that time, until 1794, when it was omitted, *perhaps accidentally*.

Another regulation in this Bill deserves to be mentioned, viz: the provision in the IXth Section, that, in every case not expressly provided for in the act, the next of kin shall inherit the real estate, and not the heir at common law alone. This was intended to prevent the operation of a rule universally adopted by the courts, in constructing the former acts, namely, that in every case not expressly provided for, the heir at common law should take the estate. This result was probably unavoidable as those acts stood, but the provision recommended by the Revisors is certainly more conformable to the principles of our Law of descent, viz: equal distribution.

The three Bills concerning Wills and descents, were enacted into Laws at the Sessions of 1832--3, with a few slight alterations, besides that already mentioned respecting the power of minors to make wills.

3. The Bill relating to Executors and Administrators, contains a compilation of the existing Laws (including the British Statutes) relating to their duties, power, and capacities, together with various provisions in respect to proceedings at law by and against them. It is impossible in this place to give an adequate idea of the various provisions of this Bill, which contains 83 sections, and abounds with matter interesting, not only to the members of the legal profession, but to all persons who may have anything to do with the estates of decedents. The Bill sets out with the early stages of the duties of Executors, &c. viz: the notice to creditors, &c. and pursues the general course of their proceedings.

In the provision regulating the order of paying the debts of a decedent, the Revisors appear to have followed the old law, supposing, it is presumed, that in the absence of any complaint of inconvenience it was best to adhere to established rules. It is understood, however, that the Legislature has altered the Law in this respect, so as to place specialties and judgments on the same footing with simple contract debts in the administration of assets. The Bill having been passed into a law at the recent session of the Legislature, we are unable to say precisely how far the alteration went, nor what other changes were made in the bill.

The 3d Report of the Commissioners was made on the 4th of January, 1833, and was accompanied by two bills. One relating to counties and townships, and county and township officers, and the other relating to weights and measures.

1. The bill relating to counties and townships, contained 118 sections, which were compiled from almost as many different acts of Assembly, the subjects of which were arranged in a methodical manner. It would require much greater time than can now be spared to state and explain all the improvements contemplated by this bill. The incorporation for certain purposes of counties and townships, the remedies at law against them, the restriction upon the appointment of county treasurers, the regulation of the duties of these officers in respect to the funds of the commonwealth, and of the counties; provisions relating to the sureties of Sheriffs, and to the books and papers of Sheriffs after they shall have left office—the establishment of a general system of township officers upon the same footing in most respects with county officers.

These are some of the principal amendments of the law proposed by this bill—which was not finally adopt-

ed by the legislature, until the present session. It is believed that the alteration made by the legislature are not important, except so far as relates to the overseers of the poor. In conformity with a suggestion made by the Revisors, it is understood that the office of overseer has been abolished, and that the functions and duties belonging thereto, have been transferred to the Supervisors of the highways—who, under this bill stand in the same relation to the general concern of the township as Commissioners do to the counties.

2. The bill relating to weights and measures and ad-measurements, contained a series of provisions which keeping clear of litigated questions of science, devolved upon the governor, the duty of procuring the standards, and provided for their use through the commonwealth. At the session of 1832--3, this bill was referred to the Franklin Institute for consideration, by whom a report was made at the last session. What further action was had upon the subject, has not been ascertained.

The 4th report of the Commissioners was made on the 6th of January, 1834, and contained six bills, viz:

1. A Bill relating to the organization of the Courts of Justice.

2. A Bill relating to Roads, Highways and Bridges.

3. A Bill relating to Inns, Taverns and Retailers of Vinous and Spirituous Liquors.

4. A Bill relating to the support and employment of the poor.

5. A Bill relating to county rates and levies, and township rates and levies.

6. A Bill relating to the militia of the Commonwealth.

These bills contain together about 577 sections, and will be found to exhibit a pretty fair specimen of the character and value of the revision in the compression of matter, the distinctness of the provisions, the advantages of arrangement, and the addition of useful amendments; of which there is not room at present to give even an outline. It may be remarked, however, that in the report accompanying the last mentioned bill, a suggestion was made respecting the suspension of the trainings of the militia, which, if adopted, would have relieved the people from inconveniences loudly complained of. It is understood that the bill relating to the organization of the Courts, was adopted at the last session, with amendments, dispensing with the Circuit Courts, and consolidating two of the districts of the Supreme Court at Harrisburgh—and that one or two others of the bills contained in this report, were also enacted into laws.

The 5th report of the Commissioners was presented to the legislature on the 28th of March, 1834. It contained two bills.—One relating to the inspection of articles of trade and commerce—the other relating to elections by the citizens of the commonwealth. The first contains 222 sections and is said by the revisors to be derived from about 50 acts of assembly, with some amendments and additions. The second contains 150 sections, and comprises, say the Commissioners, "no considerable alterations of substance—and in the few new provisions introduced, the object has been to carry out more effectually the supposed design of the constitution and the legislature." We are glad to perceive in this bill one question settled, which has been the subject of frequent discussion, viz: the right of young men between the ages of 21 and 22, whose fathers are dead, to vote. The Constitution provides, that "the sons of qualified citizens between the ages of 21 and 22 years, shall be entitled to vote, although they shall not have paid taxes." The Commissioners remark that in their opinion the true construction of the Constitution is that which they have suggested in this section, viz: that young men between 21 and 22, shall be entitled to vote, if their fathers were qualified citizens at the time of their death, and they think that there is no reason

for any distinction between the cases of a father living at the time of the election, and one who has died.

The bills contained in the last report having been presented at a late period of the session, were not acted upon by the legislature.

We have reason to believe that an elaborate report will be made at the opening of the next session—and that the subject of the administration of justice in general will form a principal feature of it.

## LAND TITLES.

Continued from Vol. xiii. page 377.

### PART. IV.

#### *Of the Land-Office under the Commonwealth.*

By an act passed 27th of November, 1799, (chap. 863, ante. vol. 1, page 479.) the estates of the late proprietaries of Pennsylvania, were vested in the commonwealth. The soil and lands, (with certain exceptions,) were made subject to such disposal, alienation, conveyance, division and appropriation, as to that, or any future legislature, should, or shall from time to time, seem meet and expedient, in pursuance of such law or laws, as should for that purpose, thereafter, be made and provided.

By sect. 7, all and every the rights, titles, estates, claims and demands, which were granted by, or derived from the said proprietaries, their officers or others by them duly commissioned, authorized and appointed, or otherwise, or to which any person or persons, other than the said proprietaries, are or were, either in law or equity, by virtue of any deed, patent, warrant or survey, of, in or to any part or portion of the lands comprised and contained within the limits of this state, or by virtue of any location filed in the Land Office at any time or times before the 4th day of July, 1776, were confirmed, ratified and established forever, according to such estate, or estates, rights or interests, and under such limitations and uses, as in and by the several and respective grants and conveyances thereof, are directed and appointed.

Sect. 8. Reserved to the proprietaries their private estates, and all the lands called or known by the name of the proprietary tenths or manors, duly surveyed and returned into the Land Office, on or before the 4th of July, 1776, with the quit rents, and other rents, and arrearages thereof, reserved out of the same, or any part thereof which had been sold.

Sect. 9. All other quit rents were abolished.

Sect. 10. The arrearages of purchase money, other than for lands within the tenths or manors, were made payable to the commonwealth.

Sect. 16. Provided for the delivering up to the State, the books, papers and documents of the Land Office.

The celebrated case of the Springetsbury manor, already noticed, brought into the consideration of the circuit court of the United States, the 8th section of this act, for which, see *Penn's lessee v. Kline*, 4 Dallas 402.

On the 9th of April, 1781, an act was passed, entitled, "An act for establishing a Land Office, and for other purposes therein mentioned." Vol. 1, pa. 529, chap. 929.)

The object of this act was, to enable the holders of existing rights to pay in their purchase money, or arrearages, and obtain patents to complete their title to the same; but not to open any office for the sale of vacant lands.

An office was instituted, consisting of the Secretary of the Land Office, Receiver General, and Surveyor General, into which was to be removed and safely kept all the records and papers of the former Land Office and Board of Property; and all future grants and confirmations of land, were directed to issue from that office.

These officers were to be appointed by the General Assembly, and commissioned by the President or Vice President, in council, for five years, unless sooner removed by the assembly; were to receive such fees, as had theretofore been allowed by law, until altered by the legislature; and respectively to appoint deputies or clerks, for whose conduct they were to be responsible; and copies of records, entries and records of said office, duly attested by them, or their lawful deputies under their hands and seal of office, are declared to be as good evidence as the original, by law, might or could be. And the Surveyor General was authorized to appoint a deputy, or deputies, in any county, for whose conduct he was made responsible. Security to be given by each officer, for the faithful discharge of his office.

Persons entitled to any lands within the limits of the Indian purchase, by virtue of any grant, warrant, or location, either in law or equity, before the 10th of December, 1776, on which patents had not issued, were entitled to receive patents for the same, on payment to the Receiver General, of the purchase money and interest thereon, or the arrearages of such purchase money, and interest agreed on for the said lands, together with the office fees, or if no purchase money or interest due, then on payment of office fees, and where surveys had not been returned to the former Land Office, on any grant, warrant or location, issued before the 10th of December aforesaid, the owner or owners thereof, on applying to the Land Office, at any time within one year after passing the act, and paying one-third of the purchase money, and interest due thereon, was to be entitled to receive an order directed to the Surveyor General, to have the same surveyed and returned, and then to have a patent on payment of the residue. (See the case of *Howard v. Pollock*, before cited.)

The sixth section directed that all purchase money due for lands in this State taken up, or entries thereof made, by any grant, license, warrant, application, or office right whatever, before the 10th of December, 1776, should be paid in four annual instalments; and in case of neglect or refusal of paying the said quotas of purchase money, and interest at the limited times, by the space of six months, it was made lawful for the commissioners of the county where the lands lay, to issue their warrant to the sheriff to sell the lands, or so much as should be necessary, to discharge the sum due, &c. and transmit the same to the Receiver General, and to give the purchaser a deed, on payment of the purchase money and interest.

7. But no warrant was to issue, nor any sheriff to sell lands, where actual settlements had been made by the owners thereof, and such owners had been driven off by the power of the enemy.

8. Lists of delinquents were to be transmitted annually to the county commissioners by the Land Officers.

The time was extended however, from time to time, as will hereafter appear, until a new system was adopted, and these impracticable parts of the law never had any operation.

By sect. 9. All lands therefore surveyed under any grant, warrant, location, or other office right, not returned, were directed to be returned into the Surveyor General's office, in the space of nine months from the passing of the act, with a penalty for refusal or neglect in the deputy surveyor, on application made to him by the owner or owners, and his legal fees being paid or tendered.

Sect. 10. Prescribes the form of patents.

Sect. 11. The lands to be patented in pursuance of this act, to be free and clear of all reservations and restrictions, and to be held in absolute and unconditional property, reserving only the fifth part of all gold and silver ore for the use of the commonwealth, to be delivered at the pit's mouth, clear of all charges.

Sect. 12. But the act was not to be construed to extend, or give validity to any grant, warrant or location,

issued before the 4th of July, 1776, for any lands or lots within ten miles of the city of Philadelphia, or within three miles of any county town in the State, or to any warrant, grant or location, for a greater quantity of land than 500 acres in one tract, or to any lands or lots not granted in the usual forms of the Land Office, or to lands not within the Indian purchase.

(See the construction of this section, in *Hubley's lessee v. Chew*, in the note to chap. 953, ante. p. 15.) By a supplement to the foregoing act, passed June 25th, 1781, (chap. 936, ante. p. 7,) the word location, is defined, and declared to be "An application made by any person or persons for lands in the office of the secretary of the late land office of Pennsylvania; and entered in the books of the said office, numbered and sent to the Surveyor General's office."

The president, or in his absence, the vice president in council, was directed to sign all and every warrant and warrants of acceptance, re-survey and partition, as fully as the governor of the late province, or commissioner of property, might or could have done.

The Receiver General was directed to pay all monies in hands, by virtue of the said act, to the state treasurer, once in every month, to be at the disposal of the legislature, to whom he was to account once in every year. The rate of exchange was fixed at the rate of one hundred and sixty-six and two thirds of the currency of this State for one hundred pounds sterling.

By the act of 5th of April, 1782, (chap. 953, ante. p. 15,) the Board of Property was instituted, to consist of the President, or vice president, and a member of the supreme executive council, appointed by council for that purpose, and the three officers of the Land Office before named "to hear and determine in all cases of controversy on caveats, in all matters of difficulty, or irregularity, touching escheats, warrants on escheats, warrants to agree, rights of pre-emption, promises, imperfect titles, or otherwise, which heretofore have, or hereafter may arise, in transacting the business of the said Land Office. The secretary of the Land Office is empowered and directed to receive and enter caveats in his office, copies whereof to be transmitted to and entered in the Surveyor General's office, and the said secretary, with the approbation and consent of the president, or vice president, to appoint days of hearing, and grant citations, at the reasonable request of any party or person applying for the same, or otherwise as the case may require, taking therefor, the customary fees of the former Board of Property. But no determination of this Board of Property, shall be deemed, taken, or constructed to extend, in any measure whatever, to the preventing either of the parties from bringing their action at the common law, either for the recovery of possession, or determining damages for waste or trespass, but the courts of law shall remain open to the said parties, in as full and ample manner, as if no determination had ever been given."

The time limited in the act of April 9th, 1781, for the payment of the purchase monies on former rights, were extended for two years; and the time fixed for returning surveys was repealed, and the Surveyor General was authorized to receive returns of such surveys, as shall appear to him to have been faithfully and regularly made from the late deputy surveyors, their heirs or legal representatives, for such further period as to him shall seem just and reasonable; and no action, loss or damage shall accrue to any person, by reason of neglect in complying with the said section before the passing of this act; in all other respects these sections were continued in force. (See the notes to this act, ante. p. 15.)

The act in the text opened the Land Office for the lands purchased of the Indians under the proprietary government. The lands in the purchase of 1784-5, are regulated by other laws, and the auction system provided for in the 6th section was entirely abandoned.

The third section of this act was considered in the

case of *Grant's lessee v. Eddy*, before cited. The lands claimed lay in the county of Northumberland. The defendant claimed under a number of applications and warrants, and surveys thereon made. The certificate that the lands were unimproved, was subscribed by two justices of the peace of Luzerne county, and the warrants called for lands in that county. The ridge between the east and west branches of Susquehanna, was one of the limits of the two counties, but it appeared in evidence that the same had not been run.

The defendant's counsel began their evidence by offering to read their leading warrant. It described "400 acres on the main branch of big Mehoppenny creek, beginning about 18 miles from the mouth of the said creek, where it forks on the south branch, (near which stands a birch tree marked with a blaze,) which empties into the west side of the north-east branch of Susquehanna, and adjoining lands this day granted to Christopher Marshall, situate in Luzerne county."

This was objected to by the plaintiff's counsel, who contended, that under the third section of the act in the text, every applicant was bound to produce a certificate from two justices of the peace of the proper county, that the lands were unimproved. This, then, is an essential pre-requisite to vest a title under the commonwealth; and the certificate whereon the defendant grounds his right, might with equal propriety be given by two justices of Allegheny or other remote county. Besides a warrant to appropriate lands in Luzerne county, will not authorize a survey of lands in Northumberland county; (see this point ante.) and the defendant under such warrants, cannot hold lands in the latter county.

The defendant's counsel insisted, that the warrants were clearly good against the commonwealth, after they had received their purchase money, and third persons had nothing to do with the certificate. There are no negative words in the law in question, which declare that warrants issued otherwise than the law prescribes shall be void. No injury can be done to the State, because the section relied on directs, that the person applying shall produce to the secretary of the Land Office, a particular description of the lands. The stat. 13 Eliz. c. 10, says, that all leases made by any persons therein mentioned, contrary to the tenor of that act, shall be utterly void, and of none effect, to all intents, constructions and purposes; yet it has been adjudged, that a lease made by Dean and Chapter against the said statute, shall not be avoided, during the life and continuance of the dean that made the lease. 3 Bac. abr. 391. 1 Black. Com. 87. So, where certain statutes have directed warrants to issue upon oath, and they have issued without oath, still they have been held good. So, a mortgage though not recorded within six months, has been resolved to be good against the mortgagor. 1 Dallas, 430. And several other cases of the same kind are put by the chief justice in delivering the opinion of the court.

By the Court. The objection appears to us to be ill-grounded. Such informalities cannot, in our idea, defeat a right. The words of the act are merely directory, and do not avoid a warrant for want of a certificate, or for an improper one. The object of the legislature was to prevent persons obtaining a title to lands which had been before occupied and improved, without paying interest on the purchase money during such occupation. Here that design was fully answered. The certificates both of the plaintiff and defendant show that the lands were wholly unimproved, and no fraud could possibly be intended against the state. The boundaries between the two counties could only be guessed at.

To the cases already cited by defendant's counsel may be added. Under the act of assembly of 4, ann. it is directed, that it shall not be lawful for any sheriff to sell, or expose to sale, any lands, &c., which shall or may yield yearly rents or profits sufficient beyond all raprizes, to pay the debt and costs within seven years.

Nevertheless, in the case of Duncan's lessee v. Laurence at Nisi Prius, May, 1769, at Carlisle, it was resolved, that the want of an inquisition did not vitiate the sale, where it was evident, that the debt and costs could not be satisfied within seven years out of the annual rents and profits. Let the warrants be read.

By an act of the same date as the act in the text, (chap. 1089) "enabling the comptroller general to issue certificate for the balances due on the accounts of the late ranging companies, raised for the defence of the frontiers, and other accounts due to the citizens of this state." The certificates issued in pursuance thereof bore an interest of six per cent. per annum, from the 1st of July, 1783, and were made transferrable in like manner as promissory notes are, and the said certificates were declared to be receivable as specie in payment for the purchase money of lands, either within the late Indian purchase, or the new purchase when made, agreeably to the regulations of the act in the text.

On the 21st of December, 1784, an act was passed entitled "An act to alter and amend an act of assembly, entitled 'An act for opening the Land Office, for granting and disposing of the unappropriated lands within this State,'" (Post. chap. 1111.)

At the passing of this act, the result of the treaty at Fort Stanwix, in the month of October preceding, was known; and that Pine creek, instead of Lycoming, was the western boundary on the north side of the West Branch of Susquehanna, of the purchase of 1768, and that Pine creek was made the boundary of deeds of October and January, 1784 and 1785, in consequence of the explanations and declarations made by the Indians at Fort Stanwix.

The following facts and circumstances were also well known.

There existed a great number of locations of the third of April, 1769, for the choicest lands on the West Branch of Susquehanna, between the mouths of Lycoming and Pine creeks; but the proprietaries from extreme caution, the result of that experience, which had also produced the very penal laws of 1768, and 1469, and the proclamation already stated, had prohibited any surveys being made beyond the Lycoming. In the mean time, in violation of all law, a set of hardy adventurers, had from time to time, seated themselves on this doubtful territory. They made improvements, and formed a very considerable population. It is true, so far as regarded the rights to real property, they were not under the protection of the laws of the country; and were we to adopt the visionary theories of some philosophers, who have drawn their arguments from a supposed state of nature, we might be led to believe that the state of these people would have been a state of continual warfare; and that in contests for property the weakest must give way to the strongest. To prevent the consequences, real or supposed, of this state of things, they formed a mutual compact among themselves. They annually elected a tribunal, in rotation, of three of their settlers, whom they called *fair play men*, who were to decide all controversies, and settle disputed boundaries. From their decision there was no appeal. There could be no resistance. The decree was enforced by the whole body, who started up in mass, at the mandate of the court, and execution and eviction were as sudden, and irresistible as the judgment.—Every new comer was obliged to apply to this powerful tribunal, and upon his solemn engagement to submit in all respects, to the law of the land, he was permitted to take possession of some vacant spot. Their decrees were, however, just; and when their settlements were recognized by law, and fair play had ceased, their decisions were received in evidence, and confirmed by judgments of courts.

The facts and circumstances above stated furnish the history of many of the provisions of this act of December, 1784, which follow.

The legislature declare, that the directions in the act

in the text "did not give nor ought to be construed to give, to the said commissioners, any authority to ascertain, definitely, the boundary lines aforesaid, and that the lines of the purchase of 1768, striking the line of the West Branch of the river Susquehanna, at the mouth of Lycoming, or Lycoming Creek, shall be the boundaries of the same purchase, to all legal intents and purposes, until the general assembly shall otherwise regulate and declare the same.

The act in the text, so far as it authorizes the laying out the lands in the new purchase, in lots, and selling them by public auction; and so far as it directs, and enables the officers of the Land Office to give credit for any part of the purchase money, or to take bonds for the same, is repealed.

It was declared that the Land Office should be opened for the new purchased lands from and after the first of May, 1785, and not sooner, for applications for lands within the same (the lands appropriated for the redemption of depreciation certificates, and the donation lands to the officers and soldiers of the Pennsylvania line only excepted,) at thirty pounds for every hundred acres, and in proportion for greater, or less, quantities; such application, or the survey thereof to be made, not to exceed one thousand acres and allowance, &c.; and every applicant for any of the same lands, shall, before the warrant for the same issue, produce to the secretary of the Land Office, an acquittance, signed by the Receiver General, that the purchase money has been paid; and the bills of credit, of the 20th of April, 1781, gold and silver, and the certificates described in the act in the text, shall be received in satisfaction of all purchase money.

Warrants issued in pursuance of this act, were not to be confined to any particular place, but might be located upon any vacant land where the applicant should think fit, (except as aforesaid,) the survey not to exceed the number of acres expressed in the warrant; and the same to be located and surveyed in one tract or parcel.

And whereas divers persons, who have heretofore occupied and cultivated small tracts of land, without the bounds of the purchase made as aforesaid in the year 1768, and within the purchase made, or now to be made, have, by their resolute stand and sufferings during the late war, merited, that those settlers should have the pre-emption of their respective plantations, it is enacted—That all and every person, or persons, and their legal representatives, who has, or have heretofore settled, on the north side of the West Bank of Susquehanna, between Lycoming or Lycoming Creek on the east, and Tyagaghton, or Pine Creek, on the west, as well as other lands within the said residuary purchase from the Indians, of the territory within this state (excepting always the lands herein before excepted,) shall be allowed a right of pre-emption to their respective possessions, at the price aforesaid.

But no person was to be entitled to such pre-emption unless he had made such actual settlement before the year 1780, and no claim was to be admitted, to or under any such person, for more than three hundred acres of land, with the usual allowance for roads, to be surveyed together, and in one tract, nor unless application for the same be made, and the consideration thereof tendered to the Receiver General of the Land Office, on or before the 1st of November, 1785.

The following cases have been decided under the pre-emption clause of this act.

Lessee of John Hughes v. Henry Dougherty, Northumberland, October, 1791, before Shippen and Bradford, justices MSS. Reports.

Ejectment for 324 acres, part of the Indian lands. Plaintiff claimed under a warrant issued on the 2d of May, 1785, for the premises, and a survey made thereon, 10th of January, 1786. The defendant on the 20th of June, 1785, entered a caveat against the claims of the plaintiff, and on the 5th of October following, took

out a warrant for the land in dispute, on which he was then settled. But claimed the pre-emption under the act of 21st of December, 1784. And on the evidence given, the facts appeared to be;

That in 1793, one James Hughes, a brother of the plaintiff, settled on the land in question, and made some small improvement. In the next year he enlarged his improvement, and cut logs to build a house. In the winter following, he went to his father's in Donegal, in Lancaster county, and died there. His elder brother, Thomas, was at that time settled on the Indian land, and one of the "Fair play men," who had assembled together, and made a resolution, (which they agreed to enforce as the law of the place,) that "if any person was absent from his settlement for six weeks, he should forfeit his right.

In the spring of 1775, the defendant came to the settlement, and was advised by the *Fair play men*, to settle on the premises which Hughes had left. This he did, and built a cabin. The plaintiff soon after came, claiming it in right of his brother, and aided by Thomas Hughes, took possession of the cabin. But the defendant collecting his friends, an affray ensued, in which Hughes was beaten off, and the defendant left in possession. He continued to improve; built a house and stable, and cleared about ten acres. In 1778 he was driven off by the enemy, and went into the army. At the close of the war, both plaintiff and defendant returned to the settlement, each claiming the land in dispute.

Shippen, J. in the charge of the court, said, The dispute here is between a first improvement, and a subsequent, but much more valuable improvement. But neither of the parties has any legal or equitable right but under the act of 21st of December, 1784. The settlement on this land was against law; it was an offence that tended to involve this country in blood. But the merit and sufferings of the actual settlers cancelled the offence, and the legislature, mindful of their situation, provided this special act for their relief. The preamble recites their "resolute stand and sufferings" as deserving a right of pre-emption. The legislature had no eye to any person who was not one of the occupiers after the commencement of the war, and a transient settler removed, (no matter how,) is not an object of the law. This is our construction of the act.—James Hughes, under whom the plaintiff claims, died before the war; the other occupied the premises after, and in the language of the act, "stood and suffered." If this construction be right, the case is at an end. Besides the plaintiff claims as heir of Thomas, who was the heir of James, the first settler. I will not say the *Fair play men* could make a law to bind the settlers; but they might, by agreement, bind themselves. Now Thomas was one of these, and was bound by his conduct, from disputing the right of the defendant.

The warrant, it seems, is taken out in the name of the father, and, it is said, as a trustee for his children. It is sometimes done for the benefit of all concerned. It is this be the case, it may be well enough; but still it is not so regular as it might have been. The jury found a verdict for the defendant.

Lessee of Morgan Sweeny v. John Toner, at the same court.

Shippen, J. charged the jury as follows:

It appears, that both plaintiff and defendant have warrants for the lands in dispute, the defendant's being one day older than the plaintiff's, and the question is, which of them, on the facts laid before us, is entitled to pre-emption, under the act of 21st of December, 1784.

The facts are clear; Toner went upon the Indian land in 1773, and made a settlement; but he exchanged this for another, on which he continued with a view to make a settlement for his family, till the war broke out, and there was a call for soldiers. He inclined to list, but was afraid of losing his land, and his friends attempt-

ed to dissuade him. However they promised to preserve his settlement for him, and he enlisted.

In 1775, the plaintiff went up, and there was some contract in writing, by way of lease, between him and Toner, and by virtue of that, he entered into possession of the premises. The terms of the lessee were, that he should make certain improvements on the place for the benefit of Toner. This lease was deposited in the hands of a third person, and the plaintiff's wife, by a trick, got possession of it; and she and her husband determined to destroy it, and so make the place their own. They continued there until driven off by the enemy. During all this time Toner was absent from the settlement but in the service of his country. Here the question of law arises.—It was attempted to confound this case with that of Hughes and Dougherty. There the court considered that Hughes died before the war commenced, and that the object of the act could never reach to him. The legislature never intended to obliterate the offence of these settlers who did not continue their possession during the war. Dougherty settled in the place of Hughes, but in his own right, and brought himself within the meaning and intention of the act. That case is very distinguishable from this. Here a man continues his improvement after the commencement of the war, till at the call of his country he leaves it. He did not by this relinquish his residence; and we consider his merit as equal with that of those who staid. We think he is an object within the spirit of the act. Besides, the plaintiff was the tenant of the defendant, and kept possession for him, and his improvements were Toner's. The plaintiff has also declared, that he made an improvement for himself in another place. This is the law, and the facts we submit to you. Verdict for the defendant. (MSS. Reports.) S. C. with the arguments of counsel. 2 Dallas, 129.

In Duncan's lessee v. Walker, the case was; a person of the name of Campbell, being a settler within the description of the act, died in 1781, before the act passed. His heir had sold the premises, being part of the pre-emption district, to the plaintiff, and his administrators, without any order of the court, had sold them to the defendant; and both plaintiff and defendant had taken out warrants within the limited time, though neither had obtained a patent. Hence the question arose at the trial, and was reserved for the opinion of the court, whether the right of pre-emption, granted in the terms of the act, should vest in the real, or the personal representatives of the grantee?

After argument, the court were of opinion, that by the words "legal representatives," heirs, or aliens, were to be understood; for, though the expression might, in the abstract, appear equivocal, and ambiguous, it was explained by the subject matter; and land, *est in terminis*, importing real estate, the legal representative must, in legal contemplation, be the heir, and not the administrator. Judgment for the plaintiff, accordingly; 2 Dallas, 205.

And in Cook's lessee, v. Epple, in the supreme court, January term, 1794. It was determined, that in an ejectment for lands, claimed by pre-emption under this act, it was indispensably necessary, to shew in evidence, that the lessor of the plaintiff had paid or tendered the consideration thereof to the Receiver-General, on or before the 1st of November, 1785. MSS. Reports.)

In McConnel's lessee, v. Porter, a pre-emption warrant granted to the plaintiff, in ejectment, under this act of December, 1784, though he had not been on the pre-emption, or Indian land, since the commencement of the late war, was held to entitle him to recover against a defendant who had not taken out his warrant until after the 1st of November, 1785. In the supreme court, September term, 1794. (MSS. Reports.)

The land set apart for the redemption of the depre- ciation certificates, and for donation to the officers and

soldiers of this state, in the federal army are described, page 62 64, Smith's laws, (chap. 996,) and see the act for distributing the donation lands, page 290, Smith's laws, chap. 1128, and the notes thereunto subjoined.

See the act for the limitation of actions to be brought for the inheritance or possession of real property, page 299, Smith's laws, chap. 1134, and the notes thereto subjoined.

(To be continued.)

For the Register.

OPINION,

*Of the Circuit Court of the U. S., for the Eastern District of Pennsylvania in the Third Circuit, delivered by*  
JUDGE BALDWIN.

Chalkley Atkinson vs. John Savage, President, Simon Gratz and others, citizens of Pennsylvania, and Edmund Carlis, and Jesse Oakley, citizens of New York, Directors of an incorporated Company called the Philadelphia and Trenton Rail Road Company.

Timothy Field vs. the same Defendants.

The complainants having filed their respective bills on the equity side of this Court, praying for injunctions to restrain the defendants from erecting a bridge across the Neshaminy creek on the route of a rail road from Philadelphia to Trenton, which they are about constructing under order of an act of Assembly, but as is alleged without any authority in law, to the great injury of the complainants; now move that one be granted till answer and the further order of the court. Due notice has been given to the defendants, who accordingly appeared by their counsel; affidavits have been taken on both sides, and the cases fully and ably argued; they are the same in their leading features, the principal difference between them being that Mr. Atkinson is under a contract for delivering lime in vessels navigating the Neshaminy, while Mr. Field is employed in transporting stone thereon from places on said river above the site of the contemplated bridge. As they both depend on the same facts and principles of law, it is unnecessary to recite the allegations of both bills.

The bill of Mr. Atkinson states that he is a citizen of New Jersey, employed in transporting articles by water to and from different places, for which purpose he is the owner of five schooners; that he has recently in the course of such business, made a contract with Anthony Taylor, who resides on the Neshaminy river, in Bucks county, in this State, to deliver to him one thousand bushels of lime at his wharf about two miles from the mouth of said river, which is by law a public navigable river or highway for the free passage of vessels up and down the same. That the defendants, under color of an act of Assembly of this State for incorporating the Philadelphia and Trenton Rail Road Company, passed in February 1832, are about constructing a permanent bridge over and across said stream, near its mouth, where it is navigable for sea vessels, and thence to the farm of said Taylor, which bridge is intended to be a flat structure, without an elevated arch, span, draw, or other contrivance for permitting masted vessels to pass up and down the river, freely without interruption, hindrance, delay, or unnecessary expense as heretofore. That neither by the laws of Pennsylvania, or the Constitution of the United States, can any obstruction be placed across the said stream; that it is contrary to law, to impede or interfere with the full and free navigation thereof, for the accommodation of the inhabitants on said river, as well as all the citizens of the United States who may have occasion to pass and repass on the same with any masted vessel. That the act of incorporation gives no authority to erect such a bridge as is contemplated, which the defendants have begun to construct, or any bridge which shall in any way impede the full and free navigation of said river.

The prayer of the bill, is for an injunction to restrain the said President and Directors, their agents, workmen, laborers, and all other persons employed about said rail road, from constructing any bridge whatever over and across said river, and for further relief. The complainant asserts no right of property on the bank or in the bed of the river; his claim to the interposition of this Court rests on his contract with Mr. Taylor for the delivery of one thousand bushels of lime at his wharf above the site of the contemplated bridge, and on the common right of navigation resulting from the act of Assembly declaring the Neshaminy a public navigable river. In this position, he asks us to arrest the completion of a public improvement now in rapid progress under an authority claimed in virtue of a law especially directed to this object; on such an application, it was our plain duty to pause and inquire whether this was a case in which an injunction should be granted on the usual allegations of ordinary bills, and the common affidavit of their truth.

That the matters involved are of deep concern to the parties and the public at large, cannot be denied, or that the consequences of our interference would be most serious; the injunction asked is not a matter of right, but rests in the discretion of the Court to be exercised according to certain well known rules of equity from which we cannot depart.

It is perhaps the highest, most delicate, and dangerous power which can be confided to any judicial tribunal, yet it is one which is indispensable for the purposes of preventive justice; the nature of the cases which call for its exercise is such too, as often to require a prompt and decisive action, on an ex parte application without a hearing of the adverse party, and sometimes without even notice, as that might lead to the immediate commission of an irremediable injury, in order to avoid the effect of the injunction, as the transfer of stock, the negotiation of a bill of exchange or promissory note, the transfer of a chattel of peculiar value, &c. On the other hand, as the erroneous exercise of this power may operate to the irretrievable injury of the party enjoined, and for which, as it is the act of the Court, he can have no legal redress in damages, while the complainant may have his remedy at law, though the relief in equity is refused; too much caution cannot be used by the Court in satisfying themselves that the case presented for their summary action is one which admits of neither doubt or delay.

Hence the complainant must show in himself an apparent prima facie right of property or action to the subject matter of the injunction, as well as an injury intended or threatened by the defendant, which if done cannot be compensated by damages or adequate legal remedies, and can be effectually averted only by the protecting preventing power of a Court of Equity. Vid. 9 Wh. 840. 6. Bonaparte vs. C. and A. R. Road co. New Jersey, Ct. Ct. Mass. It is never exercised in a doubtful case, or in a new one which does not come within the established rules of equity. Dick 600. Coop. R. Lq. 77. 7. J. C. 334; and if the Courts of the United States can be at liberty to depart at all from the settled course of proceeding in chancery, it would seem to be their duty to proceed with more caution than its ordinary rules require. In England it is in the discretion of the Chancellor, to proceed without notice, it is directed or not, according to the nature of the case; if the effect of the injunction would be to suspend the operations of a manufactory established and carried on at great expense, he would not proceed one step without notice of the motion for an injunction. 18 v. 217; but this is merely a matter of discretion. The act of Congress however makes notice indispensable before any proceedings had by the Court—"Nor shall such writ be granted in any case without reasonable notice to the adverse party, or his attorney of the time and place of moving for the same." 1. Story 311. 12. The spirit of this requisition is not merely to give the notice

in fact, the party is entitled to all the benefits resulting from notice; to be heard by his counsel on all matters appearing in the bill or disclosed in the affidavits of the complainant, not as *amici curiæ*, but as representing the party in interest who may be affected by the motion as to whom it becomes an adversary suit, even before demurrer, plea, or answer. It is difficult to draw with precision the line between the merits of the summary application, and the final hearing on the whole equity of the case after an issue. On the motion for the injunction, the Court will permit either party to inform its conscience as to the nature of the case, the consequences of granting or refusing it; without going into a full examination of the respective rights of the parties, they are bound to inquire into all circumstances bearing on the necessity of immediate action to prevent an irreparable injury to a *prima facie* right, and in doing so are not confined to the case made out by the complainant. Though this remedy will not be withheld merely because the title of the complainant may admit of doubt, or be open to litigation, there must be a clear case made out of impending danger, requiring prompt action to save an apparent right from destruction. *Eden, 234. 7. v. 309. Dick. 101. 2. Ath. 182. 4.* The defendant has an undoubted right to show by affidavit, or otherwise, the authority or claim of right by which he acts, and to explain his conduct in relation to the subject matter of complaint. The whole matter rests solely in the discretion of the Court, they must be governed in its exercise by the particular circumstances of each case; a greater latitude will be allowed in those which affect persons engaged in large and expensive undertakings, especially great works of public improvements, in which a great portion of the community may be interested, than in those merely affecting individuals, litigating on their own account. The consequences of arresting the progress and completion of canals, bridges, or artificial roads, are too serious, and the responsibility of doing it are too great to be assumed, unless in a plain case of the violation of rights which are under the peculiar protection of Courts of Equity. *Vid. 7. J. C. 330.*

In this case it was of special importance, to be well informed as to the kind of navigation upon the Neshaminy, the kind of bridge proposed to be constructed,—the extent of the inconvenience to which vessels would be subjected in consequence of its erection on the plan contemplated by the defendants, and the nature of the injury which might be done to the complainants by its completion. To restrict the defendants, to the case made out by the bill and affidavits of the complainants, would mainly deprive the former of the benefits of notice of the motion, as well as confine our inquiries within limits much too narrow for a case so interesting to all concerned as this; in the development of which we are fully satisfied that a less expanded view of the subject, as to the localities and facts, would not have enabled us to come to a conclusion satisfactory to our minds, as to the justice and equity of the application.

A preliminary question of jurisdiction has been raised by the counsel of the respondents, on which we do not deem it necessary to express any opinion; without being understood as deciding it, by taking the case into our consideration, we shall assume that there are proper parties before us, for all the purposes of the motion, and proceed to consider the grounds on which it is urged and resisted.

By an act of Assembly of March, 1771, the Neshaminy was declared a public highway for the purposes of navigation, up and down the same as far as Barnley's ford, and no further, *1. Smith, 322.* All citizens of this and other states, had therefore, the full and free right of passing and re-passing on the said river with all kinds of vessels or water craft, which no individual could in any way impede or obstruct, without subjecting himself to an indictment for a nuisance or an action for damages by the party injured. This common right

is as much under the protection of the law, as a right of property in a citizen, in all matters relating to individuals to the full extent in which the Legislature have granted it; but it is a right derived from Legislation, which may be abridged or modified from time to time, as may be thought most conducive to the public welfare, by authorizing the erection of bridges or dams, which may subject the navigation to partial interruption or wholly destroy it.

It is also competent to the Legislature, to repeal a law declaring any stream a public highway for the purposes of navigation, as it is to vacate a road; the source of the power is the same, and the reasons for its exercise on land or water are the same. public convenience and the common advantage of the people, for the furtherance of which the Legislature may take away or modify at their pleasure a common right of passage, or any easement which could be enjoyed by any person, who had no right of soil of property, in the river or road. The only restraint which the constitution imposes on their authority is, that private property shall not be taken for public use, without just compensation, and the consent of the Representatives of the people. *Const. Penn. art. 9, sect. 10.* Laws in relation to roads, bridges, rivers, and other public highways, which do not take away private rights to property, may be passed at the discretion of the Legislature, however much they may effect common rights, even private rights, if they are not those of property, may be taken away if it is deemed necessary for the promotion of public improvements, or if their destruction is the necessary consequence of their construction, without making compensation. The various laws of this State authorizing the making canals, either by the State or incorporated companies, have been so construed by the Supreme Court, as to establish the rule—"that the jury are to value the injury to property, without reference to the owner or the actual state of his business, and in doing that, the only safe rule is to inquire, what would the property be unaffected by the obstruction have sold for at the time the injury was committed, what would it have sold for as affected by the injury. The difference is the true measure of compensation, 7, S. and R. 422, 3."

The injuries to be compensated, are those which are done to property immediately, "as the swelling of water into mill races, the inundation of land, the carrying a canal or lock through a man's land, or the taking away materials." This is the line which seems to have been marked by the Legislature. Compensation shall be made for all damage from immediate injury to property, but not for any damage where there is no legal injury, which is called *damnum sine injuriæ*—as the loss of a fishery by the erection of a dam in the Schuylkill, whereby the passage of fish are prevented. "For not only may the owners of land contiguous to the river, complain of the obstruction, but all others near it who have been accustomed to receive fish thence, or to fish with an angle or hoop net. 'There are other kinds of injury too, sustained particularly by the owners of land on the river, between the Fairmount dam and the lower falls. All those persons have lost the benefit of navigation from toll, in bateaux flats, &c. which was very useful, as it served for carrying produce to market, and bringing up manure for their lands. Yet it has not been considered that for such injuries compensation is to be made. Suppose the health of the country to be injured by evaporation from the dams, is compensation to be made for this the greatest of all injuries? I presume not? No property has been taken from him, he had no property in the fish or the river, and he was bound to know the law by which the river remained public property, and of course all emoluments were precarious, 14, S. and R. 83, 4.'" So of a spring of water between high and low water mark, of the use of which the owner of adjacent land has been deprived,—he is entitled to no

compensation, because, he had no vested property in it, "and it is ridiculous (say the Supreme Court) to talk gravely of a great national work being obstructed, because a man will be deprived of the use of what never was his own." 1 Penna. Rep. 467.

We must consider these adjudications of the Supreme Court of the State, as establishing the general principle, that the right to the use of the navigable streams which are public highways, either for fishing or navigation, is subordinate to laws which regulate its general police and internal concerns; and that no common right in the common property of rivers, is considered as private property, or the subject of individual ownership. As it rests wholly in the discretion of the Legislature, to provide for any other injury than what the constitution compels them to compensate, the sole remedy for any damages, sustained by the interruption of any common right, is that which the law authorizing the construction of a road or canal across a navigable stream, prescribes in favour of a party who may sustain a loss; if the law is silent, the loss is deemed no legal injury, which gives a claim to redress. So far then as depends on the constitution and laws of Pennsylvania, and their judicial construction, there is no doubt that the rights of navigation on the Neshaminy may be wholly or partially taken away by the Legislative power of the State, without compensation.

The only remaining objection to the validity of this law rests on its alleged repugnancy to the Constitution of the United States by interfering with the power of Congress "to regulate commerce among the several States," and violating that provision which declares that "the citizens of each State shall be entitled to all privileges and immunities in the several States."

The first of these objections is fully answered by the opinion of the Supreme Court in the case of the Black Bird Marsh Creek Co. 2 Pet. 245. The Legislature of Delaware had authorized this Company to erect a dam across a navigable creek; the dam formed a permanent obstruction to the navigation, so that no vessel could pass on the stream; but the Court decided, that the act of Assembly was neither repugnant to the Constitution or in conflict with any act of Congress on the subject of commerce or navigation; and that this abridgment of the common right of navigation was a matter between the Government of the State and its citizens; of which they could take no cognizance.—ib. 252. State laws on the subject of turnpike roads, ferries, and bridges, are a part of the system of internal commerce, and police of the respective States, the regulation of which they have preserved to themselves without any control by Congress. 9 Wh. 208. 12 Wh. 443. 9 L. R. 560. 6 L. 73. 4 Wash. 378. Bennett vs Boggs, Ct. Ct. N. J. Oct. 1839; and no law on these subjects is prohibited by the Constitution of the United States, unless it impairs the obligation of a Contract, 2 Pet. 410, &c. The other objection is wholly inapplicable, as the law abridges the right of the citizens of Pennsylvania to the free navigation of the Neshaminy to the same extent as those of New Jersey, while both are equally entitled to its benefits. This brings us to the construction of the act. The eighth section authorizes the company to construct a rail road from Philadelphia to Trenton which by necessary implication gives the power of erecting bridges over the stream between these places, without which the object of the law could not be effected. This is admitted by the counsel for the complainants, but he contends, that the proviso to the eleventh section is a positive prohibition, to erect any bridge that shall not leave the navigation as full and free from all impediments as it has heretofore been, so that vessels can pass and repass with standing masts.

This proviso is in these words—"That no obstruction whatever shall be placed on or across any stream now declared a public highway, so as to impede or interfere with the full and free navigation thereof; or to

change the direction of any stream or water course not declared a public highway, so as to effect the rights and interests of the owners thereof, without the consent of the said owners, unless the right to the same be obtained by such process as is before directed in relation to other property; and that any inconvenience or expense attending the alteration of vessels now navigating said streams to conform, to the bridges erected by said company shall be paid out of the funds of the company."

The sense of the legislature as expressed in this proviso seems clear; the first part is a declaration that there shall be no obstruction to the full and free navigation of the streams, the last clause is the legislative construction of the first, that an inconvenience or expense in so altering the vessels as to conform to the bridge, is not such an obstruction as is prohibited; it is by necessary implication a declaration, that the company are not bound to conform the bridge to the vessel, but that the vessel must be made to conform to the bridge, on the company paying the expense. We are bound to give this meaning to the law, or the last sentence becomes senseless, for it can admit of none other; taking the whole together the sense is obviously, that if the erection of the bridge causes no other obstruction to the navigation, than the inconvenience in the alteration of the vessel passing it, it is within the authority of the law. This is the more evident, from the obligation of the company to pay for the expenses being confined to vessels "*now navigating said streams*;" this refers to the time of passing the act incorporating the rail road company, and would exclude the owner of any vessel which had not in February 1832, navigated the Neshaminy from a right to call on the Company for any reimbursement of the expenses attending the alteration. The words "full and free navigation," must therefore be taken with the qualification attached to them by the legislature; which precludes us from considering such a bridge as they have authorized to be erected, as an obstruction in violation of the law; if the bed of the river is unobstructed, if vessels can freely pass and repass between the piers of the bridge, without injury or interruption, it seems to us that the public common right of navigation is protected to the extent contemplated by the law.

Had it been intended that the construction of the bridge should have been such, as to permit masted vessels to pass, there would have been a provision, that a draw should have been made as is often done; this seems to have been a matter left to the discretion of the company, on condition of their making compensation to the owners of vessels then navigating the river.

So far as we can judge from the bills and affidavits, the only subject of complaint seems to be, that the masts of the vessels must be struck in order to pass the bridge, according to its present plan of construction; it is admitted that such is the fact, and it is not denied that vessels with struck masts can freely and safely navigate the rivers without meeting with any obstruction from the bridge, except the trifling delay in striking and raising them.

Though the prayer of the bill is for an injunction to restrain the erection "of any bridge," the case has not been pressed to that extent in the argument; the great question seems to be whether the company have a right to erect one without a draw, which will permit those vessels which have standing masts to pass at pleasure. It appears to us, that the law imposes no such restriction, but that it contemplates the striking the masts, as the very alteration for which provisions is made. The affidavits point us to no other inconvenience or expense to which the owners of vessels can be subjected, and unless some other is pointed out, it may be fairly inferred that none other exists; the consequence is, that the owners of vessels must submit to this restriction on their right of navigation on the terms prescribed.

The legislature had the power to authorize the erection of a dam or causeway which would stop the navigation, if in their opinion it was conducive to the general welfare; whether it would be a discreet exercise of their power is not for this Court to decide, as the whole subject is clearly within their discretion which the judicial power cannot control. 2. Pet. 412 4. Pet. 593. 4. Wh. 423. 6 Pet. 729. They have thought proper to authorize this company to subject the navigation of the streams on the route of the road to some inconvenience under the obligation making compensation for the only injury to the common right of the citizens, which they deemed a proper subject of indemnity. In this respect and to this extent, they put it upon the same footing as private property, but they have deemed any other inconvenience, expense or abridgment of navigation, to be matters of subordinate importance to the construction of the road—these are questions of public policy with which we cannot interfere without usurping legislative powers.

Though as it would seem from the affidavits, that the contemplated bridge may render the Neshaminy unnavigable for sea vessels, yet that must have been foreseen by the legislature, to be the necessary consequence of the authority given by the eleventh section, they have made no provision for such a case, the same effect has been produced on the Schuylkill, and other navigable rivers in the State, over which permanent bridges without draws have been erected by corporations under the authority of laws without a doubt of their validity or expediency. The authority given to this corporation, is agreeable to the uniform course of legislation, which allows a degree of latitude in the construction of works of public improvement, according to its nature and objects, by which more or less discretion is allowed as to the route, plan and execution, which we are not prepared to say has been wantonly abused by the officers of the company. Vide 2. Dow. P. C. 521. 2. I. R. 740, 7. I. C. 380.

The affidavits produced on the part of the company, especially that of the person employed to construct the bridge, are very strong to show, that its erection on the present plan is not only required by considerations of convenience, economy, and security, to the company; but that the making of a draw would be productive of very serious obstructions to the navigation, by requiring an additional pier in the bed of the stream, which would narrow the channel at low water, so that vessels could not pass. They also state, that the bridge crosses the stream at an angle with the current, whereby vessels would be incommoded and endangered in passing through a draw, and express an opinion that the striking of the masts is a much less inconvenience than passing the draw. These statements and opinions, tend strongly to prove, that the powers of the company have not been so exercised as to evince either a want of discretion, or a design to deviate from their authority by perverting it, so as unnecessarily to impair the rights of navigation. Whether they have abused, or misused their privileges, is an inquiry more proper for the legislature to institute under the provisions of the 20th section of the law, than for this Court to make on an application for a summary injunction; if we could interfere at all in such an allegation, it would only be on a clear departure from the route, or a palpable abuse of their discretion, in a manner that could admit of no colorable excuse—such a case we think has not been made out by the complainants.

We cannot perceive in the law in question, any excess of legislative authority, any violation of any provision of the State or Federal Constitution, or in its execution by the defendants, the assumption of any power not conferred upon them, any wanton invasion of public or common rights, or any legal ground for an injunction arresting the further progress of the work,

on any principle hitherto recognised in a Court of equity.

Were it even conceded that the bridge is a common nuisance, or a purpresture, the remedy is in a Court of law at the prosecution of the State for the public offence, where the defendants would have a right of trial by jury before conviction. If this Court enjoin them, it is in effect an adjudication that the offence has been committed, and the consequences become visited upon them in anticipation of their legal guilt. Whether a Court of equity would do this in any case before a conviction at law, is not well settled; there may be cases where on the application of the Attorney General such a proceeding might be sustained, it is unnecessary to give any opinion on such a case till it arises; it is clear, however, that to sustain such an application the injury must be a public one, and can be redressed only at its suit—18. V. 217, &c. 2. J. C. 375, &c.—Harg. L. Tracts, 83. 7.

If a public nuisance is also a specific injury to the property of an individual, he has his remedy in equity, not because the act complained of is a nuisance, but on account of the irremediable injury to his private right of property, 6. I. C. 439. 40.

No case has yet occurred, in which an injunction has been granted in favor of an individual, who claims only a common right on a common highway in which he can have no private property; nor can we conceive one in which it could be justified, unless it was accompanied with an obstruction, or destruction of a private right. The injury too must be what is deemed in equity to be irremediable, a permanent appropriation of the property of the complainant to the use of the defendants, a destruction or total loss consequent on the act about to be done; "if the injury is susceptible of perfect pecuniary compensation, if the ordinary legal remedy in Courts of law can afford adequate satisfaction, it is not in the sense of the law irreparable," "it must reach to the very substance and value of the estate going to its destruction in the character in which it is enjoyed." If the act complained of is done under color of an authority conferred by law, the Court will not interfere if there is any ground of doubt as to the authority, until the doubt has been removed, and the matter finally determined at law, 7. I. C. 352, &c. and cases cited—also 9 Wh. 842, &c. 4. I. C. 22. Coop. 77. Dick. 600. 2. I. C. 473.

The application of these familiar principles of the law of equity to the present motions, seems conclusive against them. Mr. Atkinson as the owner of vessels employed in navigating the Delaware and its waters, can have only a common right to the navigation of the Neshaminy, the interference with which by the defendants is not the proper subject of an injunction; but if it were so on general principles, his case would be a clear exception. He does not allege in his bill, that his vessels have standing masts, or that he would be subjected to any particular inconvenience or expense, by conforming his vessels to the bridge about to be erected, or that they had ever been employed in navigating the Neshaminy prior to the passage of the act. On the contrary, the affidavits of the defendants are full to the fact, that his five schooners have struck masts, and go far to negative their ever having navigated this river as early as 1832. The bill does not state the time when the contract was made for the delivery of lime, or how much of the 1000 bushels remains to be delivered; one schooner load it seems has been received, but we are left in the dark as to the present state of the contract—be that as it may, there seems no impediment to its completion. If his vessels have struck masts, they can pass and re-pass as heretofore, or if the defendants have illegally obstructed the navigation, the injury is one which admits of adequate compensation; it is at most but temporary, as it must cease with the expiration of the contract.

Mr. Field's case differs from the other, only in the

circumstance of his being engaged in transporting stone from a quarry on the river above the bridge; this gives him no peculiar claims to our interference, as it is only the mode in which he exercises his common right of navigation—he must stand on the same footing as the other citizens of this and other states, whose common right is protected by the law, subject to the qualifications imposed upon it by the provisions of the charter to this company.

So long as they comply with its requisitions for the indemnity of the owners of vessels navigating the river at the time of its passage, this court cannot restrain them in the completion of the bridge; should they refuse to pay for the inconvenience and expenses attendant on the necessary alteration of the vessels, that might be a case of special injury under the provisions of the law, which would call for the interposition of the equitable powers of the Court. It appears, however, that the company have made a public offer, to pay for such alterations, which is all they are bound to do before an application for indemnity, by any person who alleges himself intitled to it—Vid. 2. Dan. p. 6, 523. 20. J. R. 105, 740. Bonaparte, vs. Amb. and Camb. R. R. Co. We can take no judicial notice of any special injury sustained by any citizens of this State, or any general inconvenience to which the people on the Neshaminy or its vicinity may be subject on account of the bridge; those are exclusively the subjects of judicial cognizance in the Courts of the State, nor can we in any way consider the injury which any persons who are citizens of other States have sustained who are not parties to this suit? The remedy of injunction is individual, applicable only to special injuries in violation of private right, as to which the grievances of one man can have no bearing on those of another, nor can any alleged grievances of the public authorize any one to redress it at his own suit, either in a court of law or equity.

Considering these cases, therefore, as depending either on the validity of the act of incorporation or its construction, we are of opinion that the defendants have full legal authority to erect the contemplated bridge on the plan now in progress, and that it is neither a public nuisance or purpresture; but independently of this consideration, we are also of opinion that neither of the complainants have such a right, as under any circumstances to entitle them to an injunction before a trial at law. There is another objection to their motion arising from the acquiescence of the complainants, from the time, when from the plan of the bridge, it was known that it was not intended to construct it with a draw, and its erection was commenced in September or October last, till the present application was made; this objection might be a very serious one if it was necessary to consider it, but as we have no doubt on the other points in the case, we shall give no opinion upon it.

The motions for injunctions are accordingly overruled.  
Counsel for Plaintiff, C. J. Ingersoll,  
Counsel for Respondents, W. B. Reed, and J. Sergeant.

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For the Register.

## THE AMERICAN MOLE LOCUST.

No. 5.

Yesterday, the 22d of June, a hot sun made the Locusts remarkably noisy. I examined the condition of the eggs this morning, but could not see any appearance of the pupa.

In a field that contained trees seventeen years ago, and at that time abounded in Locusts, but one or two have been seen the present year, although trees of the same description are still numerous; the pupa from some unknown cause appear to have avoided it with aversion.

There are two kinds of Locusts, the Black, Male and Female; the Male is the Screecher, called also the Stocking Weaver. The other is of a reddish brown color, both Male and Female. The male is the Organist. The Black are said to be the slaves or laborers of the Red. Both kinds have the letter W on their wings.

It is said, in 1732 a settler expressed some concern on being told that the Locusts portended an Indian war; but a gentleman informed him that its signification was wholly different, that "the letter was M, and meant that Europeans would *multiply*, and spread over the American continent, like swarms of Locusts."

Many of the tender branches of trees, pierced by the Locusts, are beginning to die.

A Female that had lost its proboscis, was seen to deposit its eggs in a lump in the broken bark of an apple tree.

June 24th. The Locusts, like bagpipe players, have struck up merrily this morning; they appear determined to spend their time (however short) gaily. When the nights are warm the Locusts remain on the trees; but if cool they seek the lowly shrub for protection. To the shell is left the nail that terminated the claw of the pupa.

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No. 6.

It remains questionable whether the pupa descends to a great depth in the earth. I have been at some pains to obtain information, and from all the facts communicated, am induced to believe that they descend to the vicinity of water.

A gentleman informed me, in removing a tree a few years ago, a discovery was made of the pupa in considerable numbers about the depth of two feet under the surface of the earth; but upon inquiring, "whether there was water near?" he replied "Yes; that the roots of the tree ran into water."

I was also informed that in removing trees, stumps, and roots, where Locusts had been seen in numbers, no pupa could be found; although in many places the earth was dug from four to five feet in depth, yet in two or three years afterwards the pupa made their appearance in their usual numbers. The pupa may therefore be found but two or three feet under the earth's surface, but it is also susceptible of proof that pupa have been seen by miners and well diggers at a great depth, and always near water. I have thought proper to notice the above in the expectation that more satisfactory information might be imparted. I want facts, and facts alone; several gentlemen have promised their aid, and are assiduously engaged in watching and observing the habits of these insects, and collecting information.

June 25th. The last night was cold, and numbers of Locusts perished, but the heat of the sun has animated the survivors, and made them play cheerily.

June 26th. The musical notes of the Locust are becoming daily fainter and fainter. Every night diminishes their numbers. Last night they perished by thousands. I have put sticks down the holes made by the pupa four feet. This was the greatest depth I was ena-

bled to penetrate. This does not prove that the holes are only of that depth, for they are easily filled up with earth from the heavy evening rains which of late have been so frequent.

June 28th. The Black Locust has been charged with *stinging*, but I believe it is innocent. The Sand Wasp I have but little doubt was the guilty insect.

The Red Locusts have nearly disappeared; but few remain alive. The Black, though few, may still be heard throughout the ensuing week. It is probable by the seventh of July, this generation of Locusts will have passed away.

In 1798, a gentleman had his garden dug, by what is termed trench digging, to the depth of five feet, yet no pupa was seen; but in 1800 the pupa appeared in immense numbers, working their way through the trenched ground.

The Locusts, Black and Red, will live after leaving the shell, about twenty-eight days. The two kinds leave nails attached to their shells. The Black and Red Locusts avoid each other, and from my own observation, I know the Red to be afraid of the Black. The Black are the strongest, and make the deepest incisions in the young shoots of trees. No egg has yet, I believe, produced its pupa. C. R.

#### No. 7.

A man digging in a five acre lot which has been highly cultivated for many years, upon reaching the solid earth, observed holes as if made by the pupa of the Locust, and from which circumstance he inferred, that it had risen, until it came to the manured ground, or cultivated earth, through which it would not pass, but worked its way horizontally to the edges of the lot; for, upon examination, the holes through which the pupa had there emerged, were numerous. This explains why Locusts ascend near trees and through garden walks, and near currant and gooseberry bushes, where the earth has remained undisturbed for years.

The pupa in the shrubbery adjoining my residence, all ascended in the paths, where probably the earth has never been disturbed, with the exception of keeping it free from weeds; it is nearly in its natural state.

I have before remarked, that the Locusts if the night set in warm continued on the trees: to this circumstance may be attributed the immense number of deaths on the night of the twenty-fifth, as it became cold suddenly in the night. Baskets were filled on the morning of the twenty-sixth with the dying and the dead found under Locust, Pear, Apple and Cherry trees.

"How long will a Locust live from the time it emerges through the shell?" I am of the opinion that it may live twenty-eight days, if guarded from the cold, of which it is very impatient. C. R.

LANCASTER, June 21st, 1834.

From the Philadelphia Gazette.

MR. MILLS'S NARRATIVE.

Philadelphia, 27th June, afternoon, }  
Wade's Hotel, 4th, above Market. }

At starting—temperature 83 degrees; Barometer 30.1 Thursday, 24 minutes after 4 P. M. every thing

being prepared, I cut the cord and began my ascent. Being rather heavily ballasted, the balloon rose at first slowly, and passing at no great height over the city, I was enabled to observe the arrangement of the streets, and to see the roofs of the houses covered with people, so that it seemed to me as if the whole population were on the roofs and in the streets. In passing over the city, I threw out some printed verses, and discharged some ballast.

The Delaware presented an agreeable sight, glittering like a pure and unruffled mirror, and full of boats. Several steam boats were in sight.

After passing Camden a considerable distance, at 4 hours 34 minutes, found the thermometer 81°, and the barometer 27. At this time the view of the country was strikingly beautiful, fields and woods, and villages and streams, gave the aspect of an elegantly coloured map. Immediately after making my observations, I passed a magnificent cloud, nearly on a level with the balloon, and at a small distance. It was fleecy, white as snow, or like a vast volume of curled and wreathed steam.

At 4.45 min. temp. 80 dg., Barom. 25.1.

At 4.55 do. do. 73 dg. do. 23.

At 5.05 do. do. 70 dg. do. 21.2.

This was the highest elevation reached in this trip, being considerably upwards of two miles from the earth. It was barely possible, at this height, to distinguish the largest houses, from other objects, the houses of ordinary size could not be seen at all; and the little streams seemed to be slender silver threads, winding along the dark green earth. The woods were dark green, and the lighter green of the fields had a tinge of yellow.

At 5 hours 15 minutes, temperature 74 degrees, barometer 22.7. It was lowered thus far by letting off gas, for I could not see ahead on account of the clouds floating before me; and which, being wafted by the same wind, could not be overtaken.

I could now see beneath these clouds, at what I supposed to be a moderate distance, a long narrow stripe of ocean, and thought it prudent to come down more rapidly, because the accelerated velocity of the motion led me to perceive an increase of wind, and gave me reason to dread being carried off to sea.

At 5.25, thermometer 77 dg. barometer 27. To descend rapidly became absolutely necessary, for I was near to the only open fields to be seen ahead of me, all beyond was a great forest, apparently extending to the ocean. As the balloon came near to the earth, the rapidly fitting objects, and the roaring noise of the wind, now heard for the first time, assured me of a difficult landing. I threw out an anchor into a field of long marsh grass, but although it caught, the fastening was torn away by the balloon, when it paused for a moment, and felt the pressure of the wind. The swinging anchor, arrested by a dead tree, was drawn up to its limbs, and catching hold there, tore away the whole top of the tree, and came with it to the ground, and then tore away the broad side of the car, leaving me no support on that side. As soon as I lost the anchor, the balloon dragged me along, sometimes touching the earth, sometimes bounding forty or fifty feet into the air.—Saplings, dead trees and stumps intervened, and were either overthrown or threw me up again into the air. Two reasons kept me by the balloon—I was unwilling to lose it, and the rapidity of the motion made escape dangerous. At length, as I came near to a cedar swamp, I was compelled to choose between a drag through the woods, and the hazard of a leap. I chose the latter alternative, and, at the distance of eight feet, jumped to the earth.

The balloon relieved from my weight, rose again rapidly into the air, and sailed off to the ocean, leaving me in a marsh, at the distance of five miles, as I afterwards learned, from the nearest habitation. I alighted at half past five o'clock, and luckily taking a proper

direction, reached the house of Mr. David D. Reamer, the manager of the Hanover Furnace, Burlington county, who kindly assisted me in cleansing my wounds, and brought me to Pemberton, where I spent the night.

The only things which deduct from the immense enjoyment of this aerial voyage, are the disappointment of losing my old companion the balloon, and my fine barometer and compass. The two latter were tossed out during the drag, and the other has gone out to sea, probably far beyond the chances of recovery. I am happy to add that my injuries are not of a very formidable character, although from the nature of the ground, I had reason to apprehend a much more serious issue.

I do not feel discouraged, however, by these mishaps, but I hope so soon as I can obtain a new balloon, to make another ascent from Philadelphia, and add new contributions to the sciences of ærostation and meteorology.

I am respectfully, yours, &c.

JAMES MILLS.

#### HEAT OF THE ATMOSPHERE BY THERMOMETER IN PHILADELPHIA ALMSHOUSE.

1834.	Sun rise.	9 A. M.	Meridian or noon.	3 P. M.	Wind and Weather.
Jan. 1	33	35	39	38	NW and hazy
	23	34	36	39	43 NE with rain
	3	29	27	26	24 NW Cloudy
	4	11	13	20	19 NW to NE, with snow
	5	16	18½	22	21 NW and clear
	6	11	14	21	21 NE with snow
	7	10	12	20	23 NW and clear
	8	26	30	38	37 SW and hazy
	9	16	18	27	29 SW and cloudy
	10	32	34	38	41 SSW, light snow and rain
	11	33	34	35	36 NE with light rain
	12	32	33	34	33 NE, steady rain
	13	29	29	29	29 W and cloudy
	14	24	25	29	32 SW and clear
	15	23	25	29	31 NE to NW and clear
	16	22	23½	30	37 SW and hazy
	17	37	41	47	52 SW with steady rain
	18	48	50	55	16 SW and hazy
	19	42	43	44	44 NE with light rain
	20	40	41	45	44 West and cloudy
	21	20	22	23	22 NW and clear
	22	14	18	22	23 NW and clear
	23	13	17	27	28 NW and cloudy
	24	20	22	28	26 NW and hazy
	25	10	12	20½	22 NW and cloudy
	26	28	30	33	30 S to NW, with some snow
	27	16	18	22	22 NW and clear
	28	14	17	26	28 NW and clear
	29	24	27	32	34 NW and clear
	30	30	31	40	42 NNE and clear
	31	32	36	42	45 SW and clear

From the Warren Voice, &c. of June 11.

#### WARREN COUNTY.

Few places in the Union possess by nature more advantages in proportion to their celebrity than Warren county. The Allegheny river, running nearly through its centre, can easily be made navigable for steamboats at all seasons of the year, except when obstructed by ice. This, and its tributary streams within this county, possess probably more hydraulic privileges than any other county in the commonwealth. The surprising number of Sawmills erected on these streams, although they have enriched many of the owners, and fur-

nish money and employment to a large number of the citizens, yet, this all engrossing business has been the cause of keeping other important branches of business on the back ground. The great abundance of iron ore in various parts of the county,—the facility with which salt water is obtained by boring in the valley of the Allegheny,—and the late discovery of some coal, promises ere long to invite capitalists to engage in the manufacture of iron and salt. And when we add to these considerations, the softness and purity of our waters, the salubrity of our atmosphere and health of our climate, the cheapness of our wild lands, and facility with which most of them may be improved—may we not reasonably look forward to the time when the wheat and wool growers, and manufacturers will abound and flourish among us? No country can be better adapted to sheep than ours, and after the asked for improvements shall have been completed, the location for manufactories will be good.

This brings me to the subject in which every citizen of the county ought to feel and take a deep interest, viz. the completion of the Warren and Ridgeway Turnpike, the improvement of the Allegheny river for steamboats, and a Turnpike from Franklin to the state line, near the village of Corydon. The roads being good to Olean point, or Hamilton, in the state of N. York, and stage routes, from various parts, either passing or terminating at that place, and a strong prospect existing that a canal will soon connect the Allegheny, at that place, with the Erie canal, at Rochester; it becomes all important to this section, as well as at the southwest part of New York, that the Allegheny be made navigable to Hamilton, and a turnpike made from that place to Franklin.—And had there been an understanding between the inhabitants of Franklin, Hamilton, and this county, previously to the present session of the Legislature, in favour of such a Turnpike, and a simultaneous application made to the Legislatures of both States; each to complete said road to the state line; instead of the one asked for from Franklin to Warren, it would probably have succeeded. It is, therefore desirable that another season may not pass by without attending to this subject. The late appropriation of \$5000 by the commonwealth to the Warren and Ridgeway Turnpike, will, I hope, stimulate our citizens to immediately take up the remainder of the stock and finish the road. The completion of which will add surprisingly to the value of our lands, and the respectability of our country.

A CITIZEN.

## THE REGISTER.

PHILADELPHIA, JULY 5, 1834.

The article on the Revision of the Laws which we copy from the West Chester Pa. Whig, has evidently been prepared with care and labour, and by one who understands the subject. It will be found interesting to others besides the profession, and we are glad of an opportunity to disseminate such information throughout the State.

In the present number will be found the opinion of Judge Baldwin, delivered in the U. S. Court, in the case of the Philadelphia and Trenton Rail Road Company, which excited so much interest. A somewhat analogous case is, we understand, to come before the Court, which has arisen out of the Columbia Rail Road.

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# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 2. PHILADELPHIA, JULY 12, 1834. NO. 340.

## LAFAYETTE'S FIRST VISIT TO AMERICA.

*From Sparks' Edition of Washington's Writings, now in Press.*

LAFAYETTE was but eighteen years old, when he first conceived the project of joining the Americans, and risking his fortune and reputation in their cause. In the summer of 1776 he was stationed on military duty at Metz, being then an officer in the French army. It happened at this time, that the Duke of Gloucester, brother to the King of England, was at Metz, and a dinner was given to him by the commandment of that place. Several of the principal officers were invited, and among others La Fayette. Despatches had just been received by the Duke from England, and he made their contents the topic of conversation. They related to American affairs, the recent declaration of Independence, the resistance of the colonists, and the strong measures adopted by the ministry to crush the rebellion.

The details were new to Lafayette. He listened with eagerness to the conversation and prolonged it by asking questions of the Duke. His curiosity was deeply excited by what he heard, and the idea of a people fighting for liberty had a strong influence upon his imagination. The cause seemed to him just and noble, from the representations of the Duke himself; and before he left the table the thought came into his head, that he would go to America, and offer his services to a people, who were struggling for freedom and independence. From that hour he could think of nothing but this chivalrous enterprise. He resolved to return to Paris and make further inquiries.

When he arrived in that city, he confided his scheme to two young friends, Count Segur and Viscount de Noailles, and proposed that they should join him. They entered with enthusiasm into his views; but as they were dependant on their families, it was necessary to consult their parents, who reprobated the plan and refused their consent. The young men faithfully kept Lafayette's secret. His situation was more fortunate, as his property was at his own disposal, and he possessed an annual revenue of nearly two hundred thousand livres.

He next explained his intention to the Count de Broglie, who told him that his project was so chimerical and fraught with so many hazards, without a prospect of the least advantage, that he could not for a moment regard it with favor, nor encourage him with any advice, which should prevent him from abandoning it immediately. When Lafayette found him thus determined, he requested that at least he would not betray him, for he was resolved to go to America. The Count de Broglie assured him, that his confidence was not misplaced; but, said he, "I have seen your uncle die in the wars of Italy, I witnessed your father's death at the battle of Minden, and I will not be accessory to the ruin of the only remaining branch of the family." He then used all his powers of argument and persuasion to divert Lafayette from his purpose, but in vain. Finding his determination unalterable, the Count de Broglie said, as he could render him no aid, he would introduce him to the Baron de Kalb, who he knew was seeking an

opportunity to go to America, and whose experience and counsels might be valuable.

Through this channel Lafayette procured an interview with Silas Deane, who explained to him the state of things in America, and gave him encouragement. Deane was formal, spoke little French, and the conversation was not very copious. As he had not yet been acknowledged in any public character, and was surrounded by the British ambassador's spies, it was thought advisable, that, to avoid suspicion, no more interviews should take place. The affair was afterwards managed by the intervention of Mr. Carmichael. An agreement was at length concluded, by the terms of which the Marquis de Lafayette was to join the American service, and to receive from Congress the appointment of major-general. A vessel was about to be despatched with arms and other military supplies for the American army, in which it was proposed he should take passage.

At this juncture came the news of the evacuation of New York, the loss of Fort Washington, the retreat across Jersey, and the numerous disasters attending the Campaign. The friends of America were in despair. The plan of sending a vessel with munitions of war was abandoned. Lafayette was advised to give up the scheme, and not to make so hopeless a sacrifice in an adventure, that at best must end in utter disappointment. These representations and prospects, so far from disheartening him, rather increased his ardor in the pursuit of his object. "My zeal and love of liberty," said he, "have perhaps been hitherto the prevailing motives; but now I see a chance for usefulness, which I had not anticipated. I have money; I will purchase a ship, which shall convey to America myself, my companions, and the freight for Congress." By this time Franklin and Arthur Lee had joined Deane as Commissioners. To a proposal so disinterested and generous they could not object; they could only admire the spirit which dictated it; and he hastened immediately to put it in execution.

He intrusted his secret to Dubois Martin, secretary to the Count de Broglie, whom he despatched to Bordeaux, with instructions to purchase a vessel. This was done; but the vessel wanted repairs, and other preparations were necessary. To prevent discovery during the delay in getting things ready, he took the opportunity to fulfil a previous engagement, which was now claimed by the Prince de Poix, to visit England in company with him. The two friends arrived in London, where they received many marks of civility and attention from the King and persons of rank. It was the policy of the ministers at this time to make it appear, that a good understanding existed between the English and French courts, and the visit of these young noblemen was a circumstance favorable to that end. They stayed about three weeks in London, when Lafayette received intelligence that his vessel was ready at Bordeaux, and he returned to France; but not without some displeasure on the part of the Marquis de Noailles, the French ambassador in London, who thought his departure too abrupt and unceremonious. The British King and ministry always supposed that the Marquis de Noailles was acquainted with Lafayette's design to go to America during this visit. But this was

a mistake. Lafayette has often been heard to say, that neither the Marquis de Noailles, nor any other individual in London had a knowledge of his purpose. British writers have also charged him with having gone there to obtain information, which should be useful to the Americans. This suspicion is equally without foundation. So far from taking advantage of his situation for such a purpose, his delicacy restrained him from making such a use of his opportunities, as would, under other circumstances, have been particularly agreeable to him. It was on this ground alone, that he declined accepting a proposal to visit the naval armament at Portsmouth, which was then fitting out for America.

He did not enter Paris on his return, but went to Passay, where he remained concealed, and saw only Segur and a very few other friends. After three days he set off for Bordeaux; but on arriving there he found that his vessel was not entirely ready. He soon discovered, also, that his precautions had not been effectual, that his departure was known at Versailles, and that an arrest by order of the King would immediately follow him. He adopted the only mode of escape, that of setting sail without delay. He proceeded to Passage, the nearest port in Spain, where he proposed to wait for his ship's papers. He had hardly reached that harbor, when two officers arrived by land from Bordeaux, with a *lettre de cachet* from the King prohibiting his departure. At the same time came letters from the ministers and his family, insisting on his return. Lord Stormont's spies had detected his movements, and that ambassador had communicated the intelligence to Lafayette's father-in-law. The *lettre de cachet* commanded him to repair to Marseilles, and there wait for further orders. The letters from the ministers were severe, charging him with violating his oath of allegiance to the King, and of rashly committing an act, which might involve the government with other powers. His family censured him in a tone of pointed reprimand, assuring him that his conduct, if persisted in, would ruin both them and himself. It must be observed, however, that his wife did not join in this outcry; she approved of his enterprise from the beginning, and threw no obstacles in his way. The family were preparing for a tour in Italy, and the design was, that he should meet them at Marseilles, go with them on this tour, and thus be diverted from his American project.

From Passage he was obliged to return with the officers to Bordeaux, where he reported himself to the commandant. He wrote to the ministers and his friends, replying to their charges, and vindicating himself in the best manner he could. He reminded them, that an officer in the King's Irish regiment had been permitted to go over and join the British forces, and added that he was no reason why the same privilege should not be allowed to other officers in regard to the Americans, who were an independent people, and contending for just principles. Indeed, this had already been done in the case of Dupontail, and three other engineers belonging to the King's army, who had obtained special permission to enter the American service. These reasons and precedents he thought would justify him in asking the same permission. To his family he wrote, that his resolution was fixed, and he hoped they would aid his views. As to his oath of allegiance, he observed to some of his correspondents, that when the ministers should be faithful to their people, they might with a better grace talk about a violation of an oath to the government. This hint got to the ears of the ministers and gave offence.

In short, he had little hope of succeeding in his petition; and he accordingly wrote to M. Cognin, a particular friend very intimate at court, requesting him to watch carefully what passed, and, should he be convinced a prohibition would be issued against his American plan, to let him know it with all possible despatch. He sent a trusty courier to Versailles, who speedily came back with a letter from Cognin informing him,

that there was much excitement against him at court, that the British ambassador had made strong representations, and there was not the remotest prospect of his receiving a favorable reply.

Lafayette lost no time in taking the course, on which he had already resolved. He intimated to the commandant, that he would proceed to Marseilles, and commenced the journey. An officer by the name of Mauroy, who wished to visit America, was his companion. They entered the carriage together, but as soon as they left the environs of Bordeaux, Lafayette disguised himself in the dress of a courier, mounted a horse, and rode forward to procure relays at the post-houses. They soon diverged from the road to Marseilles, and took the direction to Bayonne. In that city they were obliged to stop for two or three hours. While Mauroy executed some important commissions of business, Lafayette lay on the straw in the stable. Fresh horses were procured, and they continued their route, Lafayette still preserving the costume and character of a courier. At the little village of St. Jean de Luz, while calling for horses, he was detected by the daughter of the man who kept the post-house. She had seen him a few days before on his way from Passage to Bordeaux. He made a signal to the girl to keep silence, which she understood; and when Lafayette's pursuers came up, and inquired if such a person had passed, she was faithful to the signal, replying that a carriage had gone along, but it contained no such person as they described. This answer occasioned much uncertainty as to the object of their pursuit, and it is believed to have been the cause of his not being overtaken by them before he reached his vessel at Passage. A favorable wind wafted him quickly to sea. Baron de Kalb, and eleven other officers of different ranks seeking service in America, constituted his retinue.

His time was employed on the voyage, as far as a severe attack of sea sickness would permit, in studying the English language, and reading books on military tactics. The ship's papers were taken out for the French Islands in the West Indies, and the Captain sailed in that direction. While on the voyage Lafayette told him, that it was his intention to run directly for the coast of America. This was promptly declined by the Captain, on the ground that the papers protected the ship only for the French Islands, and should they be taken by the English in attempting to go into an American port, they would all inevitably be sent prisoners to Halifax, and detained in captivity no one could tell how long. This was a dilemma, which Lafayette had not anticipated, and he finally told the Captain that the vessel was his property, that every person on board ran an equal risk, that he was determined at all hazards to sail by the shortest course to the American coast, and that, if he refused to put the vessel upon that track, he would deprive him of the command and give it to the next officer. The Captain acceded, but with a reluctance, which made Lafayette suspect there were other motives besides personal apprehension; and he found, on inquiry, that the Captain had goods in the ship to the amount of eight thousand dollars. When this was known he offered a pledge of security, that in case they should be captured, and the cargo lost, he would pay this amount to the Captain, although the goods had been put on board without his authority. — He also feared, what proved to be true, that orders would be sent to the West Indies to arrest them.

At some distance from the coast a privateer was described making towards them. It was supposed to be English, and hasty preparations were made for defence; but it turned out to be American, and no molestation was offered. Land was soon discovered, and they approached the shore near Georgetown in South Carolina, having fortunately escaped two British cruisers. — The same strong northeasterly wind, which brought the French vessel to the coast, had driven the cruisers to the south, and thus left an open passage for that ves-

se, which otherwise would probably have been captured.

It was dark before they came so near the shore as to be able to land. Lafayette and some of the officers entered the ship's boat, which was rowed to the beach. Here they debarked, and a distant light served to guide them. When they arrived near the house whence the light proceeded, the dogs growled and barked, and the people within supposed them to be a party of marauders from the enemy's vessels. Before gaining admittance, it was demanded of them who they were and what they wanted. Baron de Kalo was their interpreter, he having before been in America, and acquired some facility in speaking the English language. At length suspicions were removed, and the strangers were received with a cordial welcome and a generous hospitality. Lafayette retired to rest, rejoiced that he had at last attained the haven of his wishes, and was safely landed in America beyond the reach of his pursuers.—The morning was beautiful. The novelty of every thing around him, the room, the bed with musquito curtains, the black servants who came to ascertain his wants, the beauty and strange appearance of the country as he saw it from his windows, clothed in luxuriant verdure, all conspired to produce a magical effect, and to impress him with indescribable sensations. He found himself in the house of Major Huger, a gentleman not more remarkable for his hospitality, than for his worth and highly respectable character. Major Huger provided horses to convey him and his companions to Charleston. The vessel likewise went into Charleston harbor. A letter written by Lafayette to his wife will explain his situation and feelings at this time.

“Charleson, 19 June, 1777.

“My last letter to you, my dear love, has informed you, that I arrived safely in this country, after having suffered a little from sea sickness during the first weeks of the voyage; that I was then, the morning after I landed, at the house of a very kind officer; that I had been nearly two months on the passage, and that I wished to set off immediately. I spoke of every thing most interesting to my heart; of my sorrow at parting from you, and of our dear children; and it said, besides, that I was in excellent health. I give you this abstract of it, because the English may possibly amuse themselves by seizing it on its way. I have such confidence in my lucky star, however, that I hope it will reach you. This star has befriended me, to the astonishment of every body here. Trust to it yourself, and be assured that it ought to calm all your fears. I landed after having sailed several days along a coast, swarmed with hostile vessels. When I arrived, every body said that my vessel must inevitably be taken. since two British frigates blockaded the harbor. I even went so far as to send orders to the captain, both by land and sea, to put men on shore and set fire to the ship, if not yet too late. By a most wonderful good fortune, a gale obliged the frigates to stand out to sea for a short time. My vessel came in at noon-day, without meeting friend or foe.

“At Charleston I have met General Howe, an American officer now in service. The Governor of the State is expected this evening from the country. All with whom I wished to become acquainted here, have shown me the greatest politeness and attention. I feel entirely satisfied with my reception, although I have not thought it best to go into any detail respecting my arrangements and plans. I wish first to see Congress. I hope to set out for Philadelphia in two days. Our route is more than two hundred and fifty leagues by land. We shall divide ourselves into small parties. I have already purchased horses and light carriages for the journey. Some French and American vessels are here, and are to sail together to-morrow morning, taking advantage of a moment when the frigates are out of sight. They are armed, and have promised me to de-

fend themselves stoutly against the small privateers, which they will certainly meet. I shall distribute my letters among the different ships.

“I will tell you about the country and its inhabitants. They are as agreeable as my enthusiasm had painted them. Simplicity of manners, kindness, love of country and of liberty, and a delightful equality every where prevail. The wealthiest man and the poorest are on a level; and although there are some large fortunes, I challenge any one to discover the slightest difference between the manners of these two classes respectively towards each other. I first saw the country life at the house of Major Huger. I am now in the city, where every thing is very much after the English fashion, except that there is more simplicity, equality, cordiality, and courtesy here than in England. The city of Charleston is one of the handsomest and best built, and its inhabitants among the most agreeable, that I have ever seen. The American women are very pretty, simple in their manners, and exhibit a neatness, which is every where cultivated even more studiously than in England. What most charms me is, that all the citizens are brethren. In America, there are no poor, nor even what we call peasantry. Each individual has his own honest property, and the same rights as the most wealthy landed proprietor. The inns are very different from those of Europe; the host and hostess sit at table with you, and do the honors of a comfortable meal; and, on going away, you pay your bill without higgling. When one does not wish to go to an inn, there are country houses where the title of a good American is a sufficient passport to all those civilities paid in Europe to one's friend.

“As to my own reception, it has been most agreeable in every quarter; and to have come with me secures the most flattering welcome. I have just passed five hours at a grand dinner, given in honor of me by an individual of this city. Generals Howe and Moultrie, and several officers of my suite, were present. We drank healths and tried to talk English. I begin to speak it a little. To-morrow I shall go with these gentlemen to call on the Governor of the State, and make arrangements for my departure. The next day the commanding officers here will show me the city and its environs, and then I shall set out for the army.

“Considering the pleasant life I lead in this country, my sympathy with the people, which makes me feel as much at ease in their society as if I had known them for twenty years, the similarity between their mode of thinking and my own, and my love of liberty and of glory, one might suppose that I am very happy. But you are not with me; my friends are not with me; and there is no happiness for me far from you and them. I ask you, if you still love me; but I put the same question much oftener to myself, and my heart always responds, Yes. I am impatient beyond measure to hear from you. I hope to find letters at Philadelphia. My only fear is, that the privateer, which is to bring them, may be captured on her passage. Although I suppose I have drawn upon me the special displeasure of the English, by taking the liberty to depart in spite of them, and by landing in their very face, yet I confess they will not be in arrears with me, should they capture this vessel, my cherished hope, on which I so fondly depend for letters from you. Write frequent, and long letters. You do not know the full extent of joy with which I shall receive them. Embrace Henrietta tenderly. May I say embrace tenderly our children? The father of these poor children is a rover, but a good and honest man at heart; a good father, who loves his family dearly, and a good husband, who loves his wife with all his heart.

“Remember me to your friends and my own, to the dear society, once the society of the court, but which by the lapse of time has become the society of the *Wooden Sword*. We republicans think it all the better. I must leave off for want of paper and time; and if I do not repeat to you ten thousand times that I love

you, it is not from any want of feeling, but from modesty; since I have the pre-emption to hope, that I have already convinced you of it. The night is far advanced, and the heat dreadful. I am devoured by insects; so, you see, the best countries have their disadvantages. Adieu.

#### "LAFAYETTE."

All things being in readiness, the party left Charleston and travelled to Philadelphia, with as much expedition as the extreme heat of the weather and the badness of the roads would permit. They visited Governor Caswell in North Carolina, and stopped a short time at Annapolis in Maryland. Here they became acquainted with Major Bie, to whom they had a letter from Carmichael, and who was afterwards Lafayette's aid-de-camp. The vessel had been left at Charleston, where it was loaded with rice for the French market. It foundered in going out of the harbour, and both the vessel and cargo were lost.

When Lafayette arrived in Philadelphia he put his letters into the hands of Mr. Lovell, Chairman of the Committee of Foreign Affairs. He called the next day at the Hall of Congress, and Mr. Lovell came out to him and said, that so many foreigners had offered themselves for employment, that Congress was embarrassed with their applications, and he was sorry to inform him there was very little hope of his success. Lafayette suspected his papers had not been read, and he immediately sat down and wrote a note to the President of Congress, in which he desired to be permitted to serve in the American army on two conditions; first, that he should receive no pay; secondly, that he should act as a volunteer. These terms were so different from those demanded by other foreigners, and presented so few obstacles on the ground of an interference with American officers, that they were at once accepted. His rank, zeal, perseverance, and disinterestedness overcame every objection, and he was appointed a Major-General in the American army more than a month before he had reached the age of twenty.

Washington was expected shortly in Philadelphia, and the young General concluded to wait his arrival before he went to head quarters. The first introduction was at a dinner party, where several members of Congress were present. When they were about to separate, Washington took Lafayette aside, spoke to him very kindly, complimented him upon the noble spirit he had shown, and the sacrifices he had made in favor of the American cause, and then told him, that he should be pleased if he would make the quarters of the Commander-in-chief his home, establish himself there whenever he thought proper, and consider himself at all times as one of his family; adding, in a tone of pleasantry, that he could not promise him the luxuries of a court, or even the conveniences, which his former habits might have rendered essential to his comfort, but, since he had become an American soldier he would doubtless contrive to accommodate himself to the character he had assumed, and submit with a good grace to the customs, manners, and privations of a republican army. If Lafayette was made happy by his success with Congress, his joy was redoubled by his flattering proof of friendship and regard on the part of the Commander-in-chief. His horses and equipage were immediately sent to camp, and ever afterwards, even when he had the command of a division, he kept up his intimacy at head-quarters, and enjoyed all the advantages of a member of the General's family. The day after the dinner, Washington inspected the fortifications in the Delaware river, and invited Lafayette to accompany him.

Being now in the army, he continued with it as a volunteer, though without any command, till the battle of the Brandywine. He there engaged in the hottest part of the action, exposed himself to danger, and exhibited a conspicuous example of coolness and cour-

age. While the troops were retreating in disorder, he dismounted, entered the ranks, and endeavoured to rally them. As he was performing this service a musket ball passed through his leg; but the wound did not retard his efforts, till his aid told him, that the blood was running from his boot, and then he mounted his horse. He met a surgeon in the rear, who put a slight bandage round his leg, and he rode to Chester. The soldiers, in the mean time, were retreating in a hurried and straggling manner; and, regardless of himself, his first precaution was to place a guard near the bridge, at the entrance of the village, with orders to stop all the retreating soldiers at that place. His wound was then dressed, and the next morning he was taken to Philadelphia. The following letter to his wife was written the day after the action.

"PHILADELPHIA, 12th September, 1777.

"I write you a few words, my dear love, by some French officers, who came over with me, but who, not receiving any appointment in the army, are about returning to France. I begin by telling you, that I am well, because I must end by telling you that we fought yesterday in good earnest, and that we were not the stronger party. The Americans, after a long and brave resistance, were at last routed. As I was attempting to rally them, the English honored me with a musket-ball, which wounded me slightly in the leg; but this is nothing; the ball touched neither bone nor artery, and I shall escape without further inconvenience, than having to keep my bed for some time, a thing which puts me much out of humour. I hope you will not be alarmed; indeed this is a reason why you should be less so than before, since it keeps me from the field for some time, as I intend to take good care of myself; be very sure of it.

"I think this affair will lead to unpleasant consequences, which we must try to repair. You must have received many letters from me, unless the English bear the same spite to my letters as to my legs. I have as yet received only one from you, and I long for news. Adieu. I am forbidden to write longer at present. For some days past I have not had time for sleep; the last night was employed in our retreat, and in my journey to this place, where I am very well taken care of. Let my friends know that I am well. Many tender regards to Madame d'Ayen; many compliments to my sisters. The officers will depart shortly; they will see you; how happy they are. Good night; I love you more than ever.

"LAFAYETTE."

From Philadelphia he proceeded to Bristol. Mr. Henry Laurens, on his way to Yorktown, after the adjournment of Congress, took the route through Bristol, and conveyed Lafayette in his carriage to Bethlehem. This act of kindness was long remembered. When Laurens was a prisoner in the Tower of London, the Marchioness de Lafayette wrote a touching letter in his behalf to the Count de Vergennes, recounting his deeds of humanity and benevolence to the Marquis, and soliciting the aid of the French court to procure his release. Lafayette remained at Bethlehem about two months, till his wound was sufficiently healed to enable him to join the army, and a few days after he was placed at the head of a division.

#### LAND TITLES.

(Continued from page 10.)

The act to provide further regulations, whereby to secure fair and equal proceedings in the Land Office, and in the surveying of lands, (chap. 1153,) was passed on the 8th of April, 1785.

Sec. 2. The office was to open on the first day of May, 1785, and to prevent all undue preferences;—from and after the time assigned, until the end of the tenth day thereafter, being the eleventh day of the

month, the Secretary of the Land Office, upon the Receiver General's receipt being shown to him for the whole purchase money, and not otherwise, was to receive all the applications made to him for lands in the said late purchase, not exceeding one thousand acres in one application, numbering them respectively, from number one, after the common progression, to the last which should be received within the same ten days; every application to set forth in words at length, and not in figures only, the number of acres asked by each applicant respectively: a lottery was then to be made, and preference or priority to be given to the warrants accordingly, which were to be numbered according to the decision of the lottery, and to be dated on the day on which the drawing should be finished. And all applications made after the said ten days, for lands within the said late purchase, made as above directed, were to have priority in the order in which they came to the secretary's hands, and be numbered accordingly, and not otherwise.

Sec. 3. All warrants issued for lands in the said purchase, were to be directed by the Surveyor General, to the deputy surveyor of some one district within the same purchase, that it might be duly executed, and the quantity of land therein specified, surveyed and located, according to the tenor of such warrant; but if land, to the satisfaction of such warrant owner could not be found within such district, the deputy surveyor, on the desire of the person entitled to the same, was to certify, by writing indorsed on the warrant, in the presence of two subscribing witnesses, that the same had not been executed within his district, and then re-direct the same to the deputy surveyor of some other district, who, upon such warrant being produced to him, so certified, was to proceed upon and execute the same, in like manner and with the like effect, as if it had been so directed to him by the Surveyor General.

Sec. 4. No deputy surveyor was to execute any such warrant, unless it was directed to him as aforesaid, nor was any deputy to proceed to make surveys upon any warrant within the said late purchase, until the expiration of thirty days after the date of the warrant, which for preference or priority, was dependent on the lottery; and during the last twenty of the said thirty days, each deputy within the said late purchase, was to keep his office open, and personally attend therein, at least six hours in every of the said twenty days, (Sundays excepted,) for the purpose of receiving the warrants to be issued, and directed as aforesaid, and every deputy was directed to certify in writing, to the Surveyor General, on or before the first of May, the place where he was to keep his office open for the purpose aforesaid, that all persons who might apply for lands might be duly informed thereof; and every deputy who received any such warrant, was directed to make fair and clear entries of all such warrants put into his hands, in a book to be provided by him for that purpose, distinguishing therein the names of the grantees, quantities of land, number and date of each warrant, and the day on which he received the same respectively, and whatever should be done concerning such warrant, which book was to be open at all seasonable hours to every applicant, who was entitled to copies of any entry therein, to be certified as such, and signed by such deputy surveyor.

Sec. 5. After thirty days from the date of every such warrant, the priority of which depended on the lottery aforesaid, but not sooner, the deputy to whom the same was directed was to proceed to execute it in the usual manner, if requested by the owner or his agent, giving preference always to the lowest in number of those unexecuted warrants which had come to his hands, in case the owner, or his agent was ready to proceed with him, and direct him to the place where he desired him to execute it.

Sec. 6. But none of the said warrants which were not finally lodged and left with one of the deputy surveyors of the lands within the late purchase, for survey

and location within the district of such a deputy, before the thirty days were expired, were entitled to priority, but were to be considered as posterior to any warrant that had been lodged within the thirty days, and to be surveyed and located accordingly.

Sec. 7. Any person having a right to a warrant for lands within the said late purchase, who should desire it to be located to a particular place, the deputy, in whose hands the warrant should be, was to make an entry thereof in his book aforesaid, and afterwards to survey it accordingly, unless some person claiming under a warrant entitled to priority by the lottery, should insist on having his surveyed at the same place, in which case the warrant so located and superseded, was entitled to a second location as before, liable to a claim under another prior warrant, as before, and so, *loties quoties*, till the same should be undisputed. But any person, before survey made, might renounce his location, and withdraw his warrant, and have it certified, directed and delivered to another deputy within the same purchase, and again, in the same manner to another deputy, till the quantity of land therein mentioned was surveyed and established.

Sec. 8. All warrants issued after (the priority of which depended on,) the drawing of the lottery, for lands within the said purchase were to be executed in the order, and to have preference of survey, as they were earliest delivered to the deputy of the district to whom they were directed, who was to make survey thereon; and for that purpose the Surveyor General was to register the warrants in the order they came to his office. And every survey of lands within the said purchase, made in pursuance of this act, and of former acts for opening and regulating the Land Office, was to be duly returned into the Surveyor General's office, as soon as conveniently might be, after survey made, on payment or tender of the surveying fees. And surveys made on or before the thirty-first of December, in any year, and not returned into the Surveyor General's office, on or before the last day of March, in the year next following, were to be void as to future surveys sooner returned and filed in the office of the Surveyor General: and if such avoidance happened by the neglect or default of the deputy who surveyed the same, he was declared to be answerable to the party damaged, for all damages he sustained by such neglect, and the party was to be entitled to a new warrant, to survey other land elsewhere to satisfy his original application.

Sec. 9. All surveys to be returned on any warrant issued after passing this act were to be made by actual going on and measuring the land, and marking the lines to be returned upon such warrant, after the warrant authorizing such survey shall have come to the hands of the deputy surveyor to whom it was directed. And every survey made theretofore, was declared to be clandestine and void, and of no effect whatever. Every deputy, on request, was directed to give a written receipt, signed by him, to the person delivering the warrant for the fee of six pence, setting forth the day and year when, and the order in which such warrant came to his hands, and the grantee's name and surname, the number of acres to be surveyed thereon, and the number of the warrant.

Sec. 10. Every deputy, in the month of February, in every year was directed to make a general list (to be returned into the Surveyor General's office,) of all the warrants on which he made surveys during the preceding year, setting forth in a summary way, the quantity of land surveyed on each warrant, distinguishing it by its number, date and name of the grantee, and situation of every tract surveyed, respectively.

Sec. 11. Deputies were to be appointed by the Surveyor General, subject to the approbation of council, for whom the Surveyor General was to be answerable. Each deputy to give bond with two sureties; the land officers and deputy surveyors to take a certain, prescribed oath, &c.

Sect. 12. Districts were to be formed, and their boundaries declared by the Surveyor General, with the approbation of council, but they might afterwards be altered.

Sect. 13. The islands in the new purchase, in both branches of the Susquehanna, Ohio, Allegheny, and Delaware. The appropriated lands northwest of the rivers Ohio, and Allegheny, and the pre-emption to one thousand acres at the forks of Sinnemahoning, granted to General James Potter, were reserved from application, and the islands were directed to be sold by public auction, and all occupancy of, or claims thereto, were declared void, saving the pre-emption of Montour's island to General Irwin.

Sect. 14. The punishment was prescribed for neglect and refusal to perform any duties enjoined by this act, (besides being liable in damages to the party grieved,) or for any other misbehaviour, abuse of trust, or fraud in any officer &c.

Sect. 15. Any survey made by any deputy surveyor, out of his proper districts, was declared void; the manner of making surveys was prescribed; and surplus lands, not exceeding one tenth of the number of acres mentioned in the warrant, besides the usual allowance for roads, were admissible in the returns, and might be patented, paying *pro rate* for such surplus.

Sect. 16. The fees receivable in the Land Offices were also prescribed, but this part was repealed by act of 20th of April, 1795, and new fees established.

Sect. 17. The fees collected were directed to be paid over to the state treasurer, and the salaries of the officers, respectively, were fixed.

Under this act, it has been adjudged, that a warrant dated in 1792, shall be preferred to a later one in 1793, though the latter was first delivered to the district surveyor, if the same was not actually surveyed when the oldest warrant came to his hands, and the party was ready with his hands and provisions for the survey.—*Lessee of Willink and others, v. Morris and others, Supreme court, December, 1800.* (MSS. Reports.)

In the *Lessee of M'Rice v. Plummer* 1 Binney, 227. —The question was, whether, where a survey had been made under legal authority, (being part of the depreciation lands surveyed in 1785, and 1786, and divided into tracts, which remained unsold by the state, and open to purchasers under the act of 3d of April, 1792,) a warrant coming afterwards to the hands of the deputy, may be applied by him to the survey already made, without running and making the lines anew, notwithstanding the 9th section of the act of 8th of April, 1785.

Tilghman, C. J. delivered the opinion of the Court. As it is admitted that the commonwealth had received the full price of the land, that there has been at some time an accurate survey marked on the ground, and that when the appropriation was made for the plaintiff, there was no settler on the land, nothing but very clear and positive law ought to deprive the plaintiff of his purchase.

The objection to the survey is founded on the 9th section of the act of 8th of April, 1785. I shall give no opinion at this time whether the provision of this section extends to surveys made under the act of 3d of April, 1792. I understand, that in the case of *Wright's lessee v. Wells*, tried at *Nisi Prius*, at Washington, before the late C. J. McKean and Judge Yeates, it was held that it was restrained to lands then lately purchased by the commonwealth, and intended to be sold in a short time. But supposing it extended to all surveys on warrants issued after the passing of that act, though the present case may fall within the words, it is evident that it is not within the spirit and intention of the act. The intent was to prevent all persons, surveyors as well as others, from making surveys without authority, and to declare all surveys so made, void.—Now the surveys of the depreciation lands were made under the authority of the State. Let us compare this case with others that have been decided, and concern-

ing which there is no question. Suppose a surveyor receives a warrant, and the land to be surveyed on it is bounded on three sides by the lines of other tracts, which he has surveyed before. It is not contended that he is obliged to run these three lines over again; and why?—Because it would be useless to trouble those lines having been run and marked by legal authority before; and yet he does not comply with the words of the act, which require him to run the lines, and mark them, after the warrant comes to his hand. Here then is an implied exception from the words, in order to comply with the spirit of the act. Nothing more is to be done in the case before us. What mischief can arise from this construction? It is said the actual settlers will be deceived, because they find no marks made since 3d of April, 1792. But if they take due pains they cannot be deceived. It is in vain for any man to seek for proper information by hunting for marks on the ground, without applying to the deputy surveyor, who is obliged to keep books for the purpose of information. The marks of the ground give no satisfaction, for they may have been made by unauthorized persons. But the surveyor's books, combined with the marks on the ground, will make every thing clear. The entries in the books of the surveyor would have shown that this land had been surveyed; and if upon comparing the marks on the ground with the surveyor's entry, a difficulty had occurred, because the marks appeared older than the entry, this would have been at once explained by the surveyor, on application to him. Every prudent and honest man would naturally make such an application before he expended his time, labour and money in making a settlement. If in any case it has happened that a settler has in fact been deceived, even through his own inadvertency; I can only express my hope, that the warrantee will take that circumstance into consideration, and let him have a reasonable portion of the land on moderate terms. But at present we are called upon to decide the law. Three judges were of this opinion. Brackenridge, J. dissented. "I cannot assent to the opinion delivered by the C. J. The act of 1785, I have no doubt extends to this case; and although I will not say that an omission to go on the ground and mark the lines avoids the survey, as this part of the section may be considered directory; yet, if the survey is not made after the warrant comes to the hands of the deputy surveyor, it is absolutely void; for that part of the section is positive, and not directory. In this case the survey was not made after the warrant was delivered to the deputy surveyor.

In *Woods v. Ingersol*, 1 [Binney, 149, the Chief Justice, in delivering the judgment of the court, says, upon the 9th section aforesaid—"Although the directing part of the section is not strictly complied with, still the survey may be sufficient to entitle the warrantee to a patent, provided the surveyor has been upon the ground, and run lines sufficient to identify the tract, and ascertain the quantity contained in it. I mention this, because it has been insinuated, although the point was not formally made, that perhaps the surveys made by the plaintiff were void, inasmuch as all the lines of each tract were not run and marked. I understand that the construction which I have put upon the 9th section of the act of assembly in question, has always been, and it still is, held by the judges of this court. And it is of consequence that there should be no misunderstanding on the point, as the titles of a vast number of persons, who have taken up lands from the commonwealth, and paid for them, would be shaken by a contrary opinion.

The case of the lessee of *Alexander Wright v. Benjamin Wells*, was as follows:

Ejectment for a tract of 440 acres of land, called "Danger," situate on Racon creek.

The lessor of the plaintiff founded his legal title on a warrant dated 16th March, 1786; a survey thereon by

John Hoge, deputy surveyor, and a patent dated 7th of September, 1786.

The defendant's counsel objected that the survey was made by one who had no authority; that the lands lay within the district of Presley Newland Matthew Ritchie, and that by the 15th section of the act of 8th of April, 1785, it is provided that no deputy surveyor shall go out of his proper district, and every survey made by any deputy surveyor out of his proper district, shall be void and of none effect.

The court after full argument, ruled, that the 15th section of the act related solely to the lands lately purchased at Fort McIntosh. The general object of the legislature was to introduce a new system, and secure fair and equal proceedings as to the lands newly purchased from the Indians, but did not respect the lands included in the old purchase; and such has been the practice under the law. The patent recognizing the authority under which John Hoge proceeded to make the survey. Verdict for the plaintiff. (MSS. Reports.)

By an act entitled "An act to compel the speedy settlement, and the paying or securing of the debts due to this State for lands held by location, or other office right, obtained before the 10th day of December one thousand seven hundred and seventy six, and yet remaining unpatented," passed 16th of September, 1785, (chap. 1169,) it was enacted, that all persons who were, or should be, entitled in law or equity, to any lands in the old purchases, by virtue of any grant, warrant, location, or other office right whatsoever, made or accrued before the 10th of December, 1776, upon which patents had not issued, might, and such persons were enjoined and required as soon as conveniently might be, to settle and adjust the sums due to the State for the purchase money of such lands respectively, and to pay or secure the same by giving bond for the whole, or residue thereof, as the case might be, to the president of council for the time being; for the use of the State, conditioned for the payment of the sum due in five equal annual instalments, together with the whole interest due at each and every of the said periods respectively; the first payment to be made on or before the 10th of April, 1787; each instalment to be recoverable by suit, as they respectively should become due; and on such bond being lodged with the Receiver General, the party was entitled to receive a patent on payment of the legal office fees; a mortgage to be taken by the Receiver General, in every case to secure such payments, and the sum due, and conditions of payment were directed to be endorsed on every patent. Such mortgage to be recorded in the office of the secretary of the Land Office, &c.

Actual settlers on the northern and western frontiers of the State, who had been driven by the Indians from their habitations in the course of the late war, or their legal representatives, were to be exonerated from interest from the 1st of January, 1776, to the 1st of July, 1784, provided they paid, or secured the payment of the purchase money, in the manner, and within the time herein before mentioned. All persons applying for the benefit of such exoneration, to prove by the oath of a credible person, that he or the person in whose right he claimed, was in the course of the war, actually driven from his habitation on the said land, through force or fear of the Indians, and that the said plantation was consequently left without inhabitants.

Any person refusing, or neglecting to comply with the terms of this act, on or before the 10th of April, 1787, was declared to be barred and precluded from the benefit intended by this act, with respect to further time of payment, and to be proceeded against for the monies due, by sale of the lands, according to law without delay.

The time for patenting has been extended by successive acts; and the only operative part of the foregoing act is the exonerating section.

The act passed December 30th, 1786, (chap. 1248,) "for giving, during a limited time, a right of pre-emption to the actual settlers within that part of this State, which is within the territory purchased by the King of Great Britain, or from the Indians, at Fort Stanwix, in the year of our Lord one thousand seven hundred and sixty eight," after reciting that the act of 1st of April, 1784, made no reservation, nor gave any right of pre-emption to settlers in the purchase of 1768, but it was left in the power of all persons whatever to make application, and take out warrants for those lands, enacted, that no warrant should issue from the Land Office of this State, for any tract of land on which a settlement was made, unless to such person, or persons, respectively, who had made the settlements, or their legal representatives, until the 10th of April, 1788. And if any such warrant issued otherwise than aforesaid, it should be deemed to have issued by surprise, and should be of no avail in law.

Provided always, that by a settlement shall be understood, an actual personal, resident settlement, with a manifest intention of making it a place of abode, and the means of supporting a family, and continued from time to time, unless interrupted by the enemy, or by going into the military service of this country during the war.

This act to extend only to the purchase of 1768, and no settler to have the pre-emption of any tract, exceeding 400 acres, by reason of any such settlement.

By an act for facilitating the redemption of the bills of credit, emitted in the year 1781, &c. passed 28th of March 1787, (chap. 1272.) Sect. 2. It was enacted, That the time limited in the act of 16th of September, 1783, (chap. 1169.) for paying or securing the payment of the purchase money of unpatented lands, should be extended to the 10th of April, 1788.—and the periods prescribed for the payments to become due on the securities therein directed to be taken were extended to one year later than the periods in the said act mentioned.

Every person entitled to demand a patent, according to the direction of the said act, on paying one-fourth part of the amount of the purchase money, or the arrearages then due, with interest thereon, in lawful money of this state, or in bills of credit emitted by the act of 7th of April, 1781, together with the whole of the office fees, in current lawful money, might, at his option, pay the residue and interest, in lawful money, or the bills of credit aforesaid, or in certificates of debt due from this state, then by law entitled to draw interest from the treasury, commonly called funded certificates, on which certificates interest should be computed, and allowed till the time of such payment; Provided such payments were made and completed before the 10th of April, 1788.

All who neglected or refused these terms, on or before the said 10th of April, were declared to be barred and precluded from all benefit intended by this act, with respect to further time of payment, and the mode of such payment, and forthwith to be proceeded against by sale of his land, according to law, as if this act had not been made.

The terms of the above act were extended for one year, by an act passed 29th of March, 1788, (chap. 1337.)—And the act of 30th of December, 1786, was also extended to the 10th of April, 1789, and see chap. 1391, 1491, 1565, 1598.

By an act passed 3d of October, 1788, (chap. 1353,) entitled "A supplement to an act entitled 'An act for granting and disposing of the unappropriated lands within this state.'" The price of the unappropriated lands of this state, within the seventeen districts of the counties of Northumberland and Luzerne, part of the last purchase, was reduced to twenty pounds for every hundred acres, payable before the warrant issued, in gold and silver money, or in bills of credit of the 16th of March, 1785, or in certificates of this state, which

had been, or should be, issued according to law, and the bearers whereof were entitled to receive of the treasurer, an annual interest thereon, after the rate of six per cent, half yearly, and no other satisfaction for the said price. But this act not to extend to any lands which had been, or which should be surveyed by virtue of any warrant before issued for surveying of lands within the said purchase.

By an act passed 20th of November, 1789, (chap. 1456.) So much of any act or acts, as authorized or directed the receiving any certificates, issued or granted by the United States, in payment of any lands purchased, or to be purchased of this commonwealth, was repealed.

By an act passed 19th of February, 1790, (chap. 1469,) the Land Officers are directed to pay the fees by them collected, quarterly to the treasurer, and account for the same upon oath or affirmation, to be administered by the treasurer.

By an act passed 29th of March, 1790, (chap. 1491,) the Receiver General was authorized to receive any part of the purchase money for lands in the old purchase, one fourth in lawful money of the state, or in bills of credit emitted by the act of 7th of April, 1781, and three fourths, in depreciation certificates, or other certificates of original state debts, on which interest was payable annually at the treasury of the state, provided each payment so made should not be less than one-fourth part of the original purchase due on such lands.

(To be continued.)

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From the National Gazette.

### DELAWARE AND RARITAN CANAL.

Report of the Directors of the Delaware and Raritan Canal and Camden and Amboy Rail Road and Transportation Companies, to the Stockholders—July 1st, 1834.

The Joint Board of Directors of the Delaware and Raritan Canal and Camden and Amboy Rail Road and Transportation Companies, in conformity to the 18th section of the act of incorporation of the Delaware and Raritan Canal Company, and of the 17th section of the act incorporating the Camden and Amboy Rail Road and Transportation Company, requiring "That the President and Directors of said Companies shall, as soon as the affairs of said companies will admit, declare and make, such dividends as they may deem prudent and proper of the nett profits thereof, and shall semi-annually declare such dividend, and pay the same to the stockholders of the said companies; in proportion to the amount of shares held by them respectively, or in case they fail so to do, assign their reasons to the stockholders in writing for not doing so"—Report,

That the nett profits of the Camden and Amboy Rail Road and Transportation Company for the last six months, after paying to the State of New Jersey the transit duties secured to her by the acts of incorporation and the supplements thereto, and the interest on the loan negotiated in the United States in the month of July 1833, and leaving a surplus fund to meet contingencies in the hands of the Treasurer, justify the directors in declaring a dividend of 3 per cent; and they have accordingly declared a dividend of 3 per cent. on the joint stock of the Delaware and Raritan Canal and Camden and Amboy Rail Road and Transportation Companies. But the embarrassments in the money concerns of the United States, during the past winter and spring, and the difficulty of obtaining such sums as were necessary to complete the Canal and Rail Road and appendages thereof, created an absolute necessity of appropriating the profits of the Rail Road and Transportation business to the payment of the arrears of the Companies and to the completion of their works,

and more especially to the Canal and feeder, that the interests of the stockholders might not suffer by any delay in opening the same to public use.

For the purpose of effecting a loan on terms more advantageous than could be obtained in the United States, an agent was sent to Europe, in the month of March last, commissioned to negotiate a loan for such sums as were necessary to pay the arrears of the companies, and to finish the works. By the last advices from England, no arrangement had been definitely made though no doubt remained that the loan would be effected on terms more favorable to the companies than could have been secured in this country. Until this shall have been concluded, and the funds shall arrive necessary to replace the sums borrowed of the travelling account of the Rail Road company, it will not be in the power of the Directors to pay the dividend declared as aforementioned.

The Directors are therefore constrained, in justice to those who have claims upon the companies, to postpone the payment of the said dividend, until they receive funds to enable them to discharge the debts due from the companies: and in pursuance of the provisions of the charters, hereinbefore referred to, they assign the above reasons for not paying the same at this time.

The Directors feel themselves called upon, on this occasion, to declare, that their confidence in the productiveness of the Canal and Rail Road is not only unimpaired, but strengthened, by the operations of the last six months, and now that the canal is opened, to express their certain expectation of additional profits from this source. Hitherto the large capital invested in the Canal, has remained inactive, whilst the profits of the Rail Road were distributed amongst the stockholder of both companies—or in other words, the interest of both capitals was paid by the earnings of but one.

The Canal and Feeder have, within the past week, been inspected by the Directors and a number of Stockholders, who, we have reason to believe, were highly gratified at the permanent manner in which all the works had been constructed. As some evidence of this, the Directors need only state, that the water has been let into the Canal and Feeder to the depth of six feet in the former and five feet in the latter, and that no breach had occurred in the banks and no damage been done to any of the works. Already a considerable amount of lumber has passed through the Canal, and coal and lumber are now passing. Arrangements are making for the Transportation business and for Coal, and from the fact that coal can be carried through this channel to New York cheaper than by any other route, no doubt can be entertained, that from this source alone a large revenue will be derived.

The Directors will further state, for the satisfaction of the Stockholders and the public, that whatever fears may have been hitherto entertained, with regard to the ability of feeding so large a canal, they are now set entirely at rest by the fact as exhibited on the tour of inspection, and the quantity of water now in the Canal and Feeder. The supply of water which can be obtained from the Delaware without making use of any streams on the line of the work, is adequate to any amount of business which may or can be done on the canal.

In conclusion, the Directors take leave again to express their renewed confidence in the scheme, and to offer their congratulations to the stockholders on the prosperous condition of the Companies, notwithstanding circumstances beyond their control, have deprived them of the ability of paying their regular semi-annual dividend.

By order of the Joint Board,

JOHN R. THOMSON, Secretary.

From Breckenridge's Sketches, &c.

# PITTSBURG THIRTY YEARS AGO.

Pittsburg, when first I knew it, was but a village. Two plains, partly short commons, depastured by the town cows, embraced the foot of Grant's Hill, one extending a short distance up the Monongahela, the other stretching up the Allegheny river; while the town of straggling houses, easily counted, and more of logs than frame, and more of the latter than of brick or stone, lay from the junction of the Monongahela. On the bank of the Allegheny, at the distance of a long Sunday afternoon's walk, stood Fort Fayette, surmounted by the stripes and stars of the old thirteen; and from this place the King's Orchard or garden extending to the ditch of old Fort Pitt, the name by which the little town was then known. On the north side of the river just mentioned, the hills rose rude and rough, without the smoke of a single chimney to afford a rhyme to the muse of Tom Moore.\* The clear and beautiful Allegheny, the loveliest stream that ever glistened to the moon, gliding over its polished pebbles, being the Ohio, or La Belle Riviere, under a different name, was still the boundary of civilization; for all beyond it was called the Indian country, and associated in the mind with many a fire-side tale of scalping knife, hair breadth escapes, and all the horrors of savage warfare.

On the Monongahela side, the hills rose from the water's edge to the height of a mountain, with some two or three puny houses squeezed in between it and the river. On its summit stood the farm house and barn of Major Kirkpatrick. The barn was burnt down by the heroes of the Whiskey Insurrection, and this happening in the night, threw a light over the town so brilliant that one might see to pick up a pin in the street. And here, *en passant*, let me suggest the idea of erecting a gas-light on that hill, to supply the place of the sun:† I claim the merit of being the first to give this hint, for I have never yet heard of any one proposing to light a city by towers and elevated lamps. But to continue my description. To the east, for I am now supposed to be standing on the brow of Grant's Hill, the ground was peculiarly picturesque, and beautifully diversified with hill and dale, having undergone some little change from the state of nature. The hill was the favorite promenade in fine weather, and on Sunday afternoon. It was pleasing to see the line of well-dressed ladies and gentlemen, and children, nearly the whole population, repairing to this beautiful eminence. It was considered so essential to the comfort and recreation of the inhabitants, that they could scarcely imagine how a town could exist without its Grant's Hill! There was a fine spring half way up, which was supposed to afford better water than that of the pumps, and some persons even thought it was possessed of medical properties—which might be the case, after a pleasant afternoon's walk, and the toil in overcoming the steep ascent.

What a change in the appearance of Pittsburg since that day!—since the time when I used to roll over and over on the smooth side of Grant's Hill.

Set fugit interea, fugit irrevocabile tempus.

Yes, that beautiful hill itself, which might have enjoyed a green old age, has been prematurely cut to pieces and murdered by barbarous hands! The shallow pond at its base, where we used to make our first attempts at skating, has been wickedly and wilfully filled up, and is now concealed by brick buildings; the croaking of the bull-frogs having given place to men, more noisy still than they. What is passing strange, as if in

mockery of nature, the top of the hill is half covered by an enormous reservoir of water, thrown up there from the Allegheny river by means of steam engines, while the remainder is occupied by a noble cathedral church. What is still more lamentable, the hill itself has been perforated, and a stream has been compelled to flow through the passage, at an expense that would have discouraged a Roman emperor. Streets have been cut in its sides, as if there was a great scarcity of ground in this new world; and in time houses will rise up along them like those of the Cowgate in Edinburgh. Thirteen stories on one side, and half a story on the other. In short, it would fill a volume to enumerate the changes produced in a quarter of a century, in which comparatively short space of time, a small village has grown into a large city, possessing extensive capital, manufactures, and a wide-spread commerce. Its increase is still in the same ratio, and will continue, until it reaches half a million of souls. Such has been the extraordinary growth of this city, that every ten years produce such a change as to render the person, who has been absent during that period, almost a stranger.

But to return again to Grant's Hill: for I have not yet completed my sketch of the appearance of the place in olden time, and should consider it extremely imperfect if I were to say nothing of the race course, to which the plain or common between it and the Allegheny was appropriated; but at this day, since it has become the scene of business, it would require the whole amount of the sweepstakes to furnish a single foot of ground there. At the time to which I allude, the plain was entirely unincumbered by buildings or enclosures, excepting the Dutch church, which stood aloof from the haunts of man, unless at those times when it was forced to become the centre of the hippodrome. And the races, shall we say nothing of that obsolete recreation? It was then an affair of all-engrossing interest, and every business or pursuit, was neglected during their continuance. The whole town was daily poured forth to witness the Olympian games, many of all ages and sexes as spectators, and many more, directly or indirectly, interested in a hundred different ways. The plain within the course, and near it, was filled with booths as at a fair, where every thing was said, and done, and sold, and eaten or drunk—where every fifteen or twenty minutes there was a rush to some part, to witness a *fistycuff*—where dogs barked and bit, and horses trod on men's toes, and booths fell down on people's heads! There was Crowder with his fiddle and his volaries, making the dust fly with a four handed or rather four footed reel; and a little further on, was Dennis Loughy, the blind poet, like Homer, casting his pearls before swine, chaunting his master-piece, in a tone part nasal and part guttural,

"Come, gentlemen, gentlemen all,  
Genral Sincleer shall rember'd bee,  
For he lost thirteen hundred men all,  
In the Western Tari-to-ree."

All at once the cry, To horse! to horse! suspended every other business or amusements, as effectually as the summons of the faithful. There was a rush towards the starting post, while many betook themselves to the station best fitted for the enjoyment of the animating sight. On a scaffold, elevated above the heads of the people, were placed the *pates patriæ*, as judges of the race, and—but I am not about to describe the races; my object was merely to call to mind the spot where they were formerly executed: yet my pen on this occasion, was near running away with me, like the dull cart horse on the course, who feels a new fire kindled under his ribs, and, from seeing others scamper, is seized with a desire of trying his heels also. The Dutch church, after some time spent in searching, was found by me; but as for the race field, it is now covered with three story brick buildings, canal basins and great warehouses; instead of temporary booths, erected with

\* "I knew by the smoke that so gracefully curled Above the green elms, that a cottage was near."

† By referring to Reg. Vol. xi. page 336 the author will find that he has been anticipated with his towers.  
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forks, and covered with boughs just cut from the woods.

It will be the business of the annalist, or of the historian, to trace the gradual progress of increase, or the various changes which the city has undergone. Who would imagine, on beholding the concourse of country merchants from all quarters, laying in their supplies of merchandize for the purpose of retail, that, but a few years ago, the business was done in small shops, part cash and part country produce—that is, for skins, tallow, bees' wax, and maple sugar? Who would imagine that the arrival and encampment of Cornplanter Indians, on the bank of the Allegheny, would make a great stir among the merchants? It was quite a cheering sight, and one which made brisk times, to see the squaws coming in with their packs on their backs, and to whom the business of selling as high, and buying as cheap as possible, was entrusted. Now, an Indian is not to be seen, unless it be some one caught in the woods a thousand miles off, and sent to Washington in a cage, to make a treaty for the sale of lands.

I can still remember when the mountains were crossed by pack horses only, and they might be seen in long files, arriving and departing with their burdens swung on pack-saddles. Wagons and wagon roads were used in the slow progress of things, and then the wonder of the west, a turnpike, was made over the big hills; and now, canals and railways are about to bring us as near to Philadelphia and Baltimore, as the Susquehanna was in those times. The western insurrection is not so much a matter of wonder, and there is no trifling excuse for the dissatisfaction of the west, when we reflect on their situation at that period. The two essentials of civilized, and half civilized life, iron and salt, were almost the only articles they could procure; and how could they procure them? There was no sale for their grain down the Ohio and Mississippi, on account of the Indian war, and the possession of New Orleans by the Spaniards; there was no possibility of transporting their produce across the mountains, for sale or barter. There was but one article by means of which they could contrive to obtain their supplies, and that was whiskey! A few kegs were placed on each side of a horse, transported several hundred miles, and a little salt and iron brought back in their place. Is it any wonder that the excise, in addition to the expense of transportation, almost cut them off even from this miserable resource? But I am offering no justification for the violent and short sighted resistance to the laws, which took place; although the law was oppressive here, from the peculiar situation of the country, it was, in general, a good one. The insurrectionary nullification of the west, unsupported by the organized power of the state, had the same result as the revolutionary nullification practised by the state of South Carolina. The real or supposed unequal operations of the law; the real or supposed exercise of excessive power by the legitimate republican authority—the majority, caused the repeal. The moral of the matter is, that under our federal union, or even state governments, there is very little danger that majorities, when many who compose them may in turn be in the minority, will abuse their power to any great extent, but rather, that from excessive caution not to abuse that power, they will often yield to minorities, (just as kind husbands yield to their wives,) when it would be for the general welfare that they should not.

I should be guilty of a glaring omission, even in this unshaded outline of by-gone days, if I were to pass in silence that portion of my towns-men who possess so much influence in a land of equality and freedom. I allude to that class who furnished us with militia colonels and generals, and members of congress, or who contribute most to make them; who do the honours of the town, and keep up its reputation for hospitality, although not quite disinterested. I allude to the publicans and sinners. The landlord and tavern keepers,

are, in reality, the only lords we have in Pennsylvania; they possess a degree of intelligence and respectability of character which justly gives them an influence *dans la chose publique*, which very little corresponds with that of mine host in the country of John Bull, which may account for the jokes of British travellers on our keepers of public houses, in respect to their political and military importance. Before my time, Black Charles kept the first hotel in the place; when I can first remember the sign of General Butler, kept by Patrick Murphy, was the head tavern; and afterwards the Green Tree, on the bank of the Monongahela, kept by William Morrow. The General Butler was continued by Molly Murphy, for some years after the death of Paddy; she was the friend of my boyhood and youth, and although as rough a Christian as ever I knew, I verily believe that a better Christian heart, one more generous and benevolent, as well as sturdy and fearless, never beat in Christian bosom. Many an orphan, many a friendless one, many a wretched one has shed, in secret, the tear of gratitude over the memory of Molly Murphy!

But it could not be said of Fort Pitt that there was a want of private hospitality; any more than there was of the public. It so happened that, after the revolutionary war, a number of families of the first respectability, principally of officers of the army, were attracted to this spot and hence a degree of refinement, elegance of manners and polished society, not often found in the extreme frontier. The Butlers, the O'Haras, the Craigs, the Kirkpatricks, the Stevensons, the Wilkineses, the Nevilles, are names which will long be handed down by tradition. Colonel Neville was indeed the model of a perfect gentleman, as elegant in his person, and finished in his manners and education, as he was generous and noble in his feelings. His house was the temple of hospitality, to which all respectable strangers repaired. He was during the revolution the aid of Lafayette, and at the close of it married the daughter of the celebrated General Morgan, an elegant and accomplished lady, who blessed him with an offspring as numerous and beautiful as the children of Niobe. Pittsburgh could furnish at that day its *dramatis personæ* of original characters; and its local history is full of curious incident, which it might be worth while to rescue from oblivion. My esteemed friend Morgan Neville, in his admirable productions, "Mike Fink," the "Last of the Boatmen," "Chevalier Dubac," and others, has clearly proved this. I must, however, correct an inaccuracy he has fallen into in relation to the Chevalier Dubac. It was not a *monkey* which he consulted in presence of his country customers, about the lowest price of his goods—it was a raccoon. What should we think of the historian, who would write that Scipio Africanus consulted a sheep instead of an antelope? It ought also to be put on record, that the raccoon used sometimes (like a *sans culotte* as he was) to aspire to be free; on these occasions the Chevalier was much annoyed by the boys, who would run to him, crying out, "M. Dubac, M. Dubac, your raccoon has got loose—your raccoon has got loose;" to this, he would rather petulantly, yet slowly, and with a most polite motion of the head and hands, repeat, "*Late eem go—late eem go.*"

This town being the key or rather the gate of the west, was frequently visited by travellers of distinction, who remained a few days making preparations for their voyage. This circumstance, together with others which I might enumerate, gave a peculiar character and interest to the place. I have a distant recollection of the present king of France and his two brothers, who were on their way to New Orleans. They were plain modest young men, whose simplicity of manners was favourably contrasted with those of the showy city gentlemen, with fair top boots and ratan, and who found nothing good enough for them at the tavern, although at home content with an undivided portion of

an attic chamber, and a meal hastily snatched. It is invariably the wisest and best bred man, that finds the fewest things to complain of, and who is most easy to please. But such is the desire of being noticed, that some would rather pass for cub bears, than be disappointed in their endeavours to attract attention.

### GOLD AND SILVER COINS.

The following are the important bills passed by Congress in relation to foreign gold and silver coins, and a new coinage of gold at the Mint:

**An Act concerning the Gold Coins of the United States and for other purposes.**

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the gold coins of the United States shall contain the following quantities of metal, that is to say: each eagle shall contain two hundred and thirty-two grains of pure gold, and two hundred and fifty-eight grains of standard gold; each half eagle one hundred and sixteen grains of pure gold, and one hundred and twenty nine grains of standard gold: each quarter eagle shall contain fifty-eight grains of pure gold, and sixty-four and a half grains of standard gold; every such eagle shall be of the value of ten dollars; every such half eagle shall be of the value of five dollars; and every such quarter eagle shall be of the value of two dollars and fifty cents. And the said gold coins shall be received in all payments when of full weight, according to their said respective values; and when of less values, proportioned to their respective actual weights.

*Sec. 2. And be it further enacted,* That all standard gold or silver deposited for coinage after the thirty first day of July next, shall be paid for in coin, under the direction of the Secretary of the Treasury, within five days from the making of such deposit, deducting from the amount of said deposit of gold and silver, one half of one per centum: *Provided,* That no deduction shall be made unless said advance be required by such depositor within forty days.

*Sec. 3. And be it further enacted,* That all gold coins of the United States, minted anterior to the 31st day of July next shall be receivable in all payments at the rate of ninety-four and eight tenths of a cent per pennyweight.

*Sec. 4. And be it further enacted,* That the better to secure a conformity of the said gold coins to their respective standard as aforesaid, from every separate mass of standard gold which shall be made into coins at the said mint, there shall be taken, set apart by the Treasurer and reserved in his custody, a certain number of pieces, not less than three; and that once in every year the pieces so set apart and reserved shall be assayed under the inspection of the officers, and at the time and in the manner now provided by law; and if it shall be found that the gold so assayed shall not be inferior to the said standard hereinbefore declared, more than one part of three hundred and eighty-four in fineness, and one part in five hundred in weight, the officer or officers of the said mint whom it may concern shall be held excusable; but if any greater inferiority shall appear, it shall be certified to the President of the United States, and, if he shall so decide, the said officer or officers shall be thereafter disqualified to hold their respective offices: *Provided,* That if, in making any delivery of coin at the mint in payment of a deposit, the weight thereof shall be found defective, the officer concerned shall be responsible to the owner for the full weight, if claimed at the time of delivery.

*Sec. 5. And be it further enacted,* That this act shall be in force from and after the thirty-first day of July, in the year one thousand eight hundred and thirty-four.

Passed by the House of Representatives.

Attest:

W. S. FRANKLIN,

Clerk of the House of Representatives.

June 21, 1834.

**An Act regulating the value of certain Foreign Gold Coins within the United States.**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That from and after the thirty first day of July next the following gold coins shall pass current as money within the United States, and be receivable in all payments, by weight, for the payment of all debts and demands, at the rates following, that is to say: the gold coins of Great Britain, Portugal and Brazil, of not less than twenty-two carats fine, at the rate of ninety-four cents and eight tenths of a cent per pennyweight; the gold coins of France, nine tenths fine, at the rate of ninety three cents and one tenth of a cent per pennyweight; and the gold coins of Spain, Mexico, and Colombia, of the fineness of twenty carats three grains and seven sixtenths of a grain, at the rate of eighty nine cents and nine tenths of a cent per pennyweight.

*Sec. 2. And be it further enacted,* That it shall be the duty of the Secretary of the Treasury to cause assays on the aforesaid gold coins made current by this act to be had at the mint of the United States, at least once in every year, and to make report of the result thereof to Congress.

Passed House of Representatives, June 21, 1834.

(Signed)

W. S. FRANKLIN, Clerk.

**An Act regulating the value of certain Foreign Silver Coins within the United States.**

*Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled,* That from and after the passage of this act, the following silver coins shall be of the legal value, and shall pass current as money within the United States, by tale, for the payment of all debts and demands, at the rate of one hundred cents the dollar; that is to say, the dollars of Mexico, Peru, Chili, and Central America, of not less weight than four hundred and fifteen grains each; and those re-stamped in Brazil of the like weight, of not less fineness than ten ounces fifteen pennyweights pure silver in the troy pound of twelve ounces of standard silver; and the five-francs pieces of France, when of not less fineness than ten ounces and sixteen pennyweights in twelve ounces troy weight of standard silver, and weighing not less than 384 grains each, at the rate of ninety-three cents each.

*Sec. 2. And be it further enacted,* That it shall be the duty of the Secretary of the Treasury to cause assays of the aforesaid silver coins made current by this act, to be had at the Mint of the United States, at least once in every year, and to make report of the result thereof to Congress.

**THE LOCUSTS.**—We have scarcely taken any notice of these singular insects which have recently paid us one of their regular periodical visits, which occur every seventeenth year. Several persons have stated that the 25th of May is their general day of rising; but so far as our limited opportunities permitted us to observe them, they commenced rising about the 18th, and were as numerous for two or three days preceding the 25th as on that day. They appeared more noisy and numerous on the 10th of June than on any other day; but this may have been owing to the morning of that day having been dry and warm, whereas many other days during their visit were damp and cold. We are not certain whether they do not rise daily, and none of them live beyond a few days. The last we heard of them, we believe was on the 24th of June.

A squirrel hunt took place in Erie county, a few days since, during which more than three thousand squirrels were killed.

## METEOROLOGICAL REGISTER.

*Extract from the Meteorological Register, taken of the State Capitol—Harrisburg, Pennsylvania,*

By JAMES WRIGHT, Librarian.

JANUARY, 1834.

Days of the Month	Days of Week.	Morning temperature.	Noon temperature.	Evening temperature.	Mean temperature.	Morning height.	Noon height.	Evening height.	Mean height.	Winds.	State of the Weather.
Thermometer.					Barometer.						
1	Wednesday	33	38	36	36	29.82	82	82	29.82	N E	Clear day
2	Thursday	34	36	34	35	67	54	54	58	S E	Rain and sleet, fog & d.
3	Friday	24	20	19	20	92	30.02	30.06	30.00	N W	Clear day
4	Saturday	14	19	18	17	30.18	22	22	30.21	N W	Clear, cloudy
5	Sunday	18	22	22	21	08	05	30.00	04	N W	Cloudy, clear
6	Monday	18	25	24	22	29.95	29.78	29.70	29.31	N W	Cloudy day
7	Tuesday	19	27	28	27	71	68	70	70	S	Do.
8	Wednesday	29	34	34	32	72	72	74	73	S	Do.
9	Thursday	19	32	38	30	30.00	30.00	30.00	30.00	S	Frost, clear, cloudy
10	Friday	33	40	39	37	29.95	95	92	94	S	Snow, snow
11	Saturday	37	38	37	37	84	77	70	77	S E	Drizzling rain
12	Sunday	37	38	38	38	55	54	50	53	S E	Rainy day
13	Monday	25	28	32	28	84	90	95	90	W	Clear day
14	Tuesday	21	32	35	29	30.05	30.04	30.04	30.04	W	Do.
15	Wednesday	26	33	34	31	22	22	27	30.24	N W	Do.
16	Thursday	21	36	39	32	33	31	26	30	N W	Do.
17	Friday	45	48	48	47	29.91	82	81	29.85	S W	Rainy day
18	Saturday	45	53	56	51	77	77	80	78	S W	Fog, clear
19	Sunday	43	50	43	45	81	76	70	76	N E	Driz. rain, damp & clo.
20	Monday	42	40	40	41	70	70	70	70	W	Cloudy day, & high wi.
21	Tuesday	21	25	26	36	84	84	84	84	N W	Clear day, blustering
22	Wednesday	17	23	26	22	30.02	02	02	30.02	N W	Do.
23	Thursday	23	28	28	29	30.00	30.00	30.00	30.00	N W	Cloudy day
24	Friday	25	30	29	28	29.98	29.98	29.98	29.98	N W	Do.
25	Saturday	18	25	25	23	30.07	30.07	30.00	30.05	S E	Do.
26	Sunday	26	30	25	27	29.50	60	60	29.57	W	Light snow, blust'g wi.
27	Monday	17	23	22	21	63	67	67	66	W	High wind, cloudy, cle.
28	Tuesday	19	29	33	27	83	85	85	84	S W	Clear, cloudy
29	Wednesday	26	35	37	35	30.15	30.19	30.20	30.18	W	Clear day
30	Thursday	27	38	39	35	12	07	30.60	30.06	N W	Sun & clouds, cloudy
31	Friday	32	44	45	40	29.85	86	86	29.86	N W	Sun & clouds, clear
Thermometer.					Barometer.						
Maximum on the 18th,					51°	Maximum on the 16th,					39.00 inches
Minimum on the 4th,					17°	Minimum on the 12th,					29.53 "
Difference,					34°	Difference,					00.77 "
Mean,					31½°	Mean,					29.41 "

From the Kittanning Gazette.

### INTERESTS AND CAPABILITIES OF ARMSTRONG COUNTY.

Continued from page 3.

No. 3.

#### DOMESTIC ANIMALS.

Horses and horned cattle have ever constituted the principal item in the trade of this county. It is well adapted to the business; and great numbers of cattle are annually purchased by our enterprising dealers and driven to the eastern markets. Many fine horses are also taken to the eastward, some of which bring very high prices; and the number of 'blooded' horses kept for public service in the county is evidence of the interest taken in the improvement of the breed of this noble animal. There are now five or six full blooded horses kept in this county, besides many others of highly improved breed.

**STOCK COMPANIES.**—Spirited and efficient companies have been organized in this county, for the im-

provement of stock, which we think deserving of special mention.

'The Armstrong County Stock Company' was organized 29th June, 1829, and has done much towards the promotion of the object for which it was created. The stock is divided into shares of \$25 each; and it is sufficient evidence of its activity and judicious management to state the fact, that upon the late settlement, after an existence of four years, a dividend of \$42 50 was declared upon each share, which is at the rate of 42½ per cent. per annum. The number of shares is from forty two to forty-five, and are now worth from 35 to 40 dollars each. The first object of the company was to procure a first rate horse, and in this they happily succeeded when they purchased the Rappahannoc from Mr. James K. Marshall, of Virginia, (a son of Chief Justice Marshall). He cost the company \$1248, and the event has proved that it was a most judicious investment.

In June, of each year, there is a public exhibition of "Rappahannoc colts" of the preceeding year, and premiums awarded by the company to the best, in the

order of 1st, 2d and 3d. The following is a list of the premiums awarded so far:—

## 1832—HORSE COLTS.

1 Leslie Maxwell	Butler,	\$15
2 John Y. Stuart,	Franklin tp.	10
3 John Meehling,	Kittanning,	7

## MARE COLTS.

1 Benj. Schrekongost,	Kittanning tp.	15
2 Richard Reynolds,	Toby tp.	10
3. Anthony Montgomery,	Plumcreek tp.	7

## 1833—HORSE COLTS.

1 Anthony Montgomery,	Plumcreek,	15
2 David Reynolds,	Kittanning,	10
3 F. Rohrer,	do	7

## MARE COLTS.

1 Wm. Noble	Franklin,	15
2 Hugh Campbell,	Kittanning,	10
3 Philip Templeton,	Sugarcreek,	7

## 1834—HORSE COLTS.

1 James Ritchart,	Elderton,	15
2 James Sloan,	Buffalo tp.	10
3 Robt. Brown, sen.	Kittanning,	7

## MARE COLTS.

1 Richard Reynolds,	Toby tp.	15
2 Leslie Maxwell,	Butler,	10
3 J. M. Fox,	Foxburg.	7

The late exhibition of this kind brought together a considerable number of very promising young animals as competitors. These exhibitions have the effect also of exciting an emulation and ambition, which cannot fail in producing a decided improvement in the breed alike creditable and profitable to the country.

John Hare Powell, Esq. of Philadelphia, a few years since presented to John Sloan, Jr. Esq. of this county, a cow and calf of full Durham breed. The calf, which has since grown to be one of the largest and finest animals we ever saw, was presented by Mr. Sloan to this company. He is estimated to be worth from three to five hundred dollars. Mr. Sloan has on his farm a stock of young half-bloods, and some three-fourths, and finer looking cattle we never met with. He has also another full-blood bull calf, now about seven months old. The Durham blood will soon be extensively diffused throughout this and the adjacent counties, and will unquestionably cause a decided improvement in the stock of cattle.

The *Licking Creek Stock Company* is also possessed of a fine full-blooded horse, (the 'Sir Henry'); and the members are active and energetic in their efforts to improve the stock of domestic animals. We are not in possession of any particulars respecting it; but we should be happy to lay before the public any interesting facts in relation to it that may be communicated.

There is yet another company or association for the same object, the members of which reside principally in Clarion and Toby townships. They are spirited in the prosecution of their objects, and able and willing to accomplish what they undertake. Of that we are also without data.

Mr. Charles Evans, of Clarion township, has introduced some first rate horses into this country. He had two in this borough on court week that an amateur would consider a luxury to look at.

Mr. Patterson, our late Representative, is another gentleman who is entitled to honorable mention for his interest and activity in this important cause.

We have here spoken of what we know: if we have omitted any fact, or any name, that should have been mentioned, let it be ascribed to our want of information.

Thus we see what a few energetic and liberal minded men can accomplish. The spirit which animates them is diffusing itself throughout the whole community; it has already placed this county, in this respect in advance of its neighbours, and cannot fail resulting in a general benefit.

We do wish that a similar spirit of enterprise would seize the people of this county in other matters upon

which we have treated in the course of these numbers; for, were it so, this county would, in a short time, be excelled by few in population and wealth. We have strong hopes that it will soon be so—it is necessary that it should be so; for, with all the improvements that can possibly be introduced in live stock, the county cannot prosper as it ought to do, as it might do, were like improvements to be made in other branches of industry. We think we have shown that it possesses all the necessary natural facilities for a great variety of occupations not now prosecuted at all, and that all that is wanting is the will.

We shall defer the consideration of the subject of Sheep, until our next number.—In the mean time we should be thankful for any suggestion on this very important branch of our subject.

For the Register.

## THE AMERICAN MOLE LOCUST.

No. 8.

June 30th. But one or two Locusts could be heard to-day.

July 1st. A few may still be seen in some places, but their notes are feeble.

July 2d. The last Locusts has disappeared. The cold rain and wind of the last night have killed the few which remained.

The Locusts made their appearance in the following years: 1698, 1715, 1732, 1749, 1766, 1783, 1800, 1817, 1834. They will again appear in March, 1851. I know only the two kinds of seventeen years Locusts, the Red and the Black. I have read a description of one in a pupa, said to be armed with "a deadly sting." To a superficial observer, a Sand Wasp might readily be taken for a Locust. It is large, and not generally known.

In different vallies throughout Pennsylvania the Locusts appear in different years, but always after an interval of seventeen years. Water lying deep in mountains, the pupa are principally found on the sides, seldom on the summit. I have known them very numerous on the south side of the Spring Mountain in Quakake valley, Northampton county.

No egg has as yet given birth to a pupa; I will inform you when I see the first young insect.

In July, 1817, about the twenty-first, I have been credibly informed that the pupa made its appearance from the egg an exact likeness of the *shell* deposited by the Locust. It was exceedingly small, and its first movement was towards the earth.

C. K.

LANCASTER, July 2, 1834.

No. 9.

I have been informed that pupa came up in the rail road where it was dug forty feet below the surface. This single fact is sufficient to show the great depth this insect penetrates.

I mentioned in my first number, that pupa came, were transformed to Locusts, and had gone. This happened in one lot of this city, but I am now convinced that they were killed by the coldness of the night. I have found them nearly torpid with cold, but upon placing them in the sun, they revived and were able to fly and play upon their pipes. This season from the many cold nights has been peculiarly destructive to the Locusts.

C. R.

## BRADDOCK'S DEFEAT.

We extract, to-day, from the appendix to Spark's edition of the writings of Washington, a notice of the French account of this affair, which will be found interesting. It corresponds generally with that given by General Lafayette, of the same affair, while last in this country, but differs in one point. It seems that Captain Beaujeu, who suggested and lead the expedition from Fort Du Quesne, was killed, and that the victory was completed by Capt. Dumas; and it must have been from the latter that the Monsieur Du Contrecoeur snatched the laurels.—*Pittsburg Gaz.*

"No circumstantial account of this affair has ever been published by the French, or has it hitherto been known from any authentic source what numbers were engaged on their side. Washington conjectured, as stated in his letters, that there were no more than three hundred, and Dr. Franklin, in his account of the battle, considers them at most as not exceeding four hundred. The truth is, there was no accurate information on the subject, and writers have been obliged to rely on conjecture.

In the archives of the *War Department*, at Paris, I found three separate narratives of this event, written at the time, all brief and imperfect, but one of them apparently drawn up by a person on the spot. From these I have collected the following particulars.

M. de Contrecoeur, the commander of Fort Du Quesne, received intelligence of the arrival of General Braddock and the British regiments in Virginia. After his remove from Will's Creek, French and Indian scouts were constantly abroad, who watched his motions, reported the progress of his march, and the route he was pursuing. His army was represented to consist of three thousand men. M. de Contrecoeur was hesitating what measures to take, believing his small force wholly inadequate to encounter so formidable an army, when M. de Beaujeu, a captain in the French service, proposed to head a detachment of French and Indians, and meet the enemy in their march. The consent of the Indians was first to be obtained. A large body of them was then encamped in the vicinity of the Fort, and M. de Beaujeu opened to them his plan, and requested their aid. This they at first declined, giving as a reason the superior force of the enemy, and the impossibility of success. But at the pressing solicitation of M. de Beaujeu, they agreed to hold a council on the subject, and to talk with him again the next morning. They still adhered to their first decision, and when M. de Beaujeu went out among them to inquire the result of their deliberation, they told him a second time that they could not go. This was a severe disappointment to M. de Beaujeu, who had set his heart upon the enterprise, and was resolved to prosecute it. — Being a man of great good nature, affability, and ardor, and much beloved by the savages, he said to them—"I am determined to go out and meet the enemy.—What! will you suffer your Father to go out alone? I am sure we shall conquer." With this spirited harangue, delivered in a manner that pleased the Indians, and won upon their confidence, he subdued their unwillingness, and they agreed to accompany him.

It was now the 7th of July, and news came that the English were within six leagues of the Fort. This day and the next were spent in making preparations, and reconnoitering the ground for attack. Two other captains, Dumas and Liguery, were joined with M. de Beaujeu, and also four lieutenants, six ensigns, and two cadets. On the morning of the 9th they were all in readiness, and began their march at an early hour. It seems to have been their first intention to make a stand at the fort, and annoy the English while crossing the river, and then retreat to the ambuscade on the side of the hill where the contest actually commenced. The rees on the bank of the river afforded a good opportunity to effect this manoeuvre, in the Indian mode of

warfare, since the artillery could be of little avail against an enemy, where every man was protected by a tree, and at the same time the English would be exposed to a point blank musket shot in fording the river. As it happened, however, M. de Beaujeu and his party did not arrive in time to execute this part of the plan.

The English were preparing to cross the river, when the French and Indians reached the defiles on the rising ground, where they posted themselves, and waited till Braddock's advanced columns came up. This was a signal for the attack, which was made at first in front, and repelled by so heavy a discharge from the British, that the Indians believed it proceeded from artillery, and showed symptoms of wavering and retreat. At this moment M. de Beaujeu was killed, and the command devolving on M. Dumas, he showed great presence of mind in rallying the Indians, and ordered his officers to lead them to the wings and attack the enemy in flank, while he with the French troops would maintain the position in front. This order was promptly obeyed, and the attack became general. The action was warm and severely contested for a short time; but the English fought in the European method, firing at random, which had little effect in the woods, while the Indians fired from concealed places, took aim, and almost every shot brought down a man. The English columns soon got into confusion; the yell of the savages, with which the woods resounded, struck terror into the hearts of the soldiers, till at length they took to flight and resisted all the endeavors of their officers to restore any degree of order in their escape. The route was complete, and the field of battle was left covered with the dead and wounded, and all the artillery, ammunition, provisions, and baggage of the English army. The Indians gave themselves up to pillage, which prevented them from pursuing the English in their flight.

Such is the substance of the accounts written at the time by the French officers, and sent home to their government. In regard to the numbers engaged, there are some slight variations in the three statements. The largest number reported is two hundred and fifty French and Canadians, and six hundred and forty one Indians; and the smallest, two hundred and thirty-three French and Canadians, and six hundred Indians. If we take a medium, it will make the whole number led out by M. de Beaujeu at least eight hundred and fifty. In an imperfect return, three officers were stated to be killed, and four wounded; about thirty soldiers and Indians killed, and as many wounded.

When these facts are taken into view, the result of the action will appear much less wonderful, than has generally been supposed. And this wonder will be still diminished, when another circumstance is resorted to, worthy of particular consideration, and that is, the shape of the ground on which the battle was fought. This part of the description, so essential to the understanding of military operations, and above all in the present instance, has never been touched upon, it is believed, by any writer. We have seen that Braddock's advanced columns, after crossing the valley extending for nearly half a mile from the margin of the river, began to move up a hill, so uniform in its ascent, that it was little else than an inclined plane of a somewhat crowning form. Down this inclined surface extended two ravines, beginning near together, at about one hundred and fifty yards from the bottom of the hill, and proceeding in different directions till they terminated in the valley below. In these ravines the French and Indians were concealed and protected. At this day they are from eight to ten feet deep, and sufficient in extent to contain at least a thousand men. At the time of the battle, the ground was covered with trees and long grass, so that the ravines were entirely hidden from view, till they were approached within a few feet. Indeed, at the present day, although the place is cleared from trees and converted into pasture, they are perceptible only at a very short distance. By this knowledge of the pecu-

liarities of the battle ground, the mystery that the British conceived themselves to be contending with an invincible foe, is solved. Such was literally the fact. They were so paralysed between the ravines, that their whole front and right flank were exposed to the incessant fire of the enemy, who discharged their muskets over the edge of the ravines, concealed during that operation by the grass and bushes, and protected by an invincible barrier below the surface of the earth. Wm. Butler, a veteran soldier still living (1832,) who was in this action, and afterwards at the Plains of Abraham, said to me, "We could only tell where the enemy were by the smoke of their muskets." A few scattering Indians were behind trees and some were killed in venturing out to take scalps, but much the larger portion fought wholly in the ravines.

### ERIE HARBOR.

This harbor, about 4 miles long and nearly 2 miles broad, is formed by what has long been denominated "Presqu' Isle." This is a low, sandy tract of ground, stretching out from the main shore, first being quite narrow, in a north-easterly direction, then gradually increasing in breadth, and turning more and more easterly, and finally, having acquired a breadth of more than a mile, terminating abruptly nearly north of the town of Erie. This tract has several deeply indented bays at its eastern end, encloses several ponds, and is, in general, thickly covered with woods. (See plan.)

At the time the improvements of this harbor were first projected, there existed but one inlet. This was at the east end, and through it there was one crooked and intricate channel, of about  $5\frac{1}{2}$  feet water. After the works of improvements were well advanced, and had already been attended by the most happy results, giving a draught of 12 feet through a straight channel, a new inlet was unexpectedly made through a narrow part of the Presqu' Isle, near the west end of the harbor. Before advertent to the probable consequences of this breach, it is proper to describe the actual condition of the works at the eastern entrance, and such further operations as may be there called for.

From a point on the main shore, which considerably narrows the entrance, (see plan,) a line of harbor pier, 6 feet wide, was run N. 19 W. 1,700 feet towards the south-eastern point of the Presqu' Isle; pursuing the same course, the pier, with a breadth of 10 feet, was prolonged 317 feet further. At this point began the south channel pier, which was run, first, N. 35 E. 482 feet, being 10 feet broad, and then, N. 63 E. 302 feet, with a breadth of 12 feet. On the prolongation of the south harbor pier, the distance across the channel is 600 feet; and at the east end of the south channel pier the channel is 375 feet wide. The north channel pier projects into the lake a distance of 1,017 feet beyond the prolongation just mentioned, and into the harbor a distance of 246 feet, the course of the whole pier being N. 63 E.; its width is generally 13 feet.

The north harbor pier was extended in the first instance N. 17 W. 673 feet to a low point. This point, however, by the action of waves and current, changed its place; thus making it necessary to connect the pier with it, in its new position, which was done by extending the pier N. 27 W. 1,050 feet. In consequence of still further changes in the form and position of this point, it became at least necessary to diverge, and to carry the pier a further distance of 1,284 feet, to be there united with another point more inland, leaving the outer point as an exterior breakwater. This harbor pier is six feet wide.

The last mentioned length of 1,284 feet falls within the operations of the present year, during which it will be completed. The amount now available will also fill the harbor and channel piers entirely full, wherever there is a deficiency of stones; will, besides, cause a

deposit of stones to be made for the security of the east end of the south channel pier, and will supply all deficient planks in the tops of the piers.

In regard to a portion of the future operations on the harbor, perhaps the most distinct idea can be formed from the instructions which, in reference thereto, were left with the agent. They are, therefore, in part, here transcribed.

"A very careful sounding should be made along both sides of the piers and breakwater, (harbor and channel piers,) and off at the several distances of say 15, 30, and 45 feet. These soundings should be laid down upon a plan of the works drawn on a very large scale. Lines of soundings should also be run across the channel at about every 50 feet, and entered upon the same drawing.

"Wherever these soundings show that the sand has been grooved out next the works, stones should be thrown in until they rise 3 or 4 feet above the proper bottom, and have a slope of 2 base to 1 altitude.

"In certain places it may be advisable to throw in these stones upon a stratum of brush wood. In case these stones are thrown into a place exposed to a heavy swell, they should be large, if not so exposed, they may be small. The east end of the south channel pier should be reinforced with a mass of large stones without delay.

"It is considered very important that the soundings above mentioned should be taken and protracted on the plan with great accuracy; so that, being done from time to time, (the dates always being entered,) the progress of every change in the bottom may be distinctly seen. What will it cost to place these stones? Can they be thrown in this year?"

A no estimate is made by the agent, in a letter lately received from him, for throwing stones along the sides of the piers, it is presumed the soundings above directed showed the bottom next the piers to be undisturbed. The above mentioned reinforcement of the east end of the south channel pier will be effected by the funds in hand.

"One of the most important future operations will be the closing the present breach at the junction of the south pier and south breakwater, (south channel pier, and south harbor pier.)

"To do this, I would recommend that two rows of piles be driven, as in this sketch; the piles being about 8 or 9 feet apart in each row, and the rows being from 20 to 30 feet apart, according as they can be made to embrace, more or less closely, the ruins of the old work; but whatever may be the separation of the rows, the several parts of the rows should be accurately straight. These rows should overlap upon the present fixed parts, from 15 to 30 feet. The piles being driven, and secured to each other at top by temporary ties, small stones should be thrown into the hole at and near the breach, until a level surface has been formed there-with, 15 feet below the surface of the water. Curbs of strong timbers, well secured by cross ties, should then be sunk in close contact with the piles, and so as to occupy all the space between the piles. These cribs being filled with stones, a bank of stones, about six feet high and 12 feet broad, should be added on each side of the crib work. A section of this work is here given. What will it cost?"

The estimate furnished for this object amounts to \$3,045.

The breach just described was made by the very same action of the water as is relied on to maintain a straight and deep channel between the piers. The action, however, at this particular point, was greater than was looked for; a portion of the pier work was undermined, upset, and ruined; and so great, at times, was the current through the breach, that the sand of the bottom was scooped out to a depth of 30 feet. This breach must now be repaired with such precautions as will avert any similar accident for the future. These

precautions are indicated in the instructions just quoted.

Up to this moment this project for the improvement of the harbor has never been brought to bear fully upon its object. The line across the inlet has, indeed, been complete; that is to say, it has connected the two shores once or twice; but, before sufficient time had elapsed to give the maximum result as to the channel, either the waters had worked a passage round the south end of the harbor pier, or they had found an outlet through the breach, thereby materially weakening the action in the channel. Notwithstanding these divisions of the current, however, the experiment, as has been stated, is successful; a deep and direct channel into the harbor having been substituted for one that was both shallow and intricate. But it will not answer to leave the works in their present state, because the breach will be progressively enlarged by the undermining of more and more of the piers, and at last the current through the channel will be so reduced, that the passage may be closed by a new deposit of sand.

The first object then must be to bring the piers, in their present form, to entire completion, by connecting them securely with the shores, so that no water shall pass round them; by fully loading them with stones, so as to give strength to resist the shocks of waves, ice, &c.; by protecting their basis from the undermining force of the current; and by closing the breach, so that all the passing water at the end of the harbor shall be limited to the channel.

As before stated, the estimated expense of these operations, over and above the sum now available, is \$3,045.

Before the formation of the new inlet at the west end of the harbor, especially after some progress had been made in the works, there was no visible reason to doubt the happy issue of the experiment. Is there any reason to doubt it now? This is an important question, and one which at this moment does not, probably, admit of an answer. If the new inlet is to cause a diminished depth of water throughout the eastern entrance, this new inlet must be closed; if, on the other hand, no sensible effect is produced on the eastern entrance, and none upon the depth in the harbor, then two things may be done: 1st, precautions may be taken to guard the Presqu' Isle from a further spread of the inlet, or, 2d, a western entrance may be formed with part of, if not all, the qualities of the eastern; and should the latter result be obtained, the valuable properties of this harbor would be greatly enhanced. Can this question be solved now? In other words, can the best mode of operation be hit upon now, with that degree of certainty which would warrant the considerable expenditures required? It is thought not. There is good authority for stating that the depth through the new inlet is less now (by about two feet in the deepest) than it was some months ago: there is also good authority for stating that the current through the eastern channel has not greatly lessened, and it is certain that the depth through this channel is still quite sufficient; and, though there is no mode of ascertaining accurately whether this channel remains unchanged, has somewhat lessened, or increased its depth, there is, at least, no direct evidence that the draught has been at all reduced. If, then, no injurious consequences have resulted to the old inlet, from the new, while the former has been in a state not admitting the full display of its improving tendencies, it seems advisable to wait for this display before a decision is had on the project to be applied to the western entrance. While there was but one shallow and sluggish channel into the harbor, it would have been a bold scheme that contemplated the formation of two artificial channels, wrought to considerable depths solely by the rapidity of the current. One such channel has, however, already been produced; and present appearances, and circumstances which have developed themselves during the progress of the operations, show that a second is certainly not beyond the scope of possibilities.

A short delay will not, at any rate, be attended with any evil, and in the mean time, measures may be taken which will make the Government to decide correctly either upon closing the new inlet, leaving it open, with some precautions against a further extension, or forming a second artificial channel. The measures adverted to, besides the completion of the present works, as herein advocated, and the minute soundings at the eastern entrance, as directed in the instructions above quoted, include a survey of the harbor and Presqu' Isle, and accurate and numerous soundings over the whole harbor, in the new inlet, and in the lake opposite. The survey and soundings being made on a drawing thereof made to a large scale, new sets of soundings should be marked at least every three or four months; the places of the new soundings corresponding as near as possible with the places of the old.

Should any change be in progress, a year or eighteen months will fully show their nature and tendencies.—And unless the whole truth in relation to this matter be known, that is to say, unless it be known whether the bottom be unchangeable, or, if otherwise, to what extent and in what manner changes are being wrought, it would be only by hazard that a suitable system of operations could be selected.

Finally, under these views of the whole subject, it is recommended—

1st. To cause the present works to be brought to completion, and to be secured against any further injury or accident for any cause.

2d. That directions be given to attend closely to the instructions above quoted in relation to the soundings at and near the pier and in the channel.

3d. That a survey be made of the whole harbor and Presqu' Isle, including very numerous soundings over the whole harbor, through the new inlet, and in the lake opposite thereto; and that a new series of soundings, always as nearly as possible in the same spots, be taken every three or four months, and noted upon the map, together with any changes that may have been made in the form of the shore.

So much is yet indeterminate as to future as to future labors in this harbor, that would be useless now to attempt an estimate of the ultimate express.

## LOCUSTS.

Notwithstanding the season has been wet and cold to an unusual degree, the growing crops have a favorable appearance and promise an abundant harvest. Locusts are heard in every direction—but there do not appear to be tens, where seventeen years ago, there were millions. On the mountains there are some, and wild pigeons, with their young, have come to feast on them, as on a luxurious banquet; and found themselves, by aid of our hunting lads, feasted upon until the cloyed appetite said—"it is enough."

We learn that numerous bears, leaving the thick pine and hemlock swamps, have come out on the oak grounds after locusts, promising fine sport. Though we have no battles to record, shipwrecks to tell, or great political events to announce, yet an occasional incident occurs worth telling. A neighbor a mile or two above us, going out, a few days ago to a deer-lick, stopped on a large root, where a pine had been blown up, set his gun against a sapling—looked over his shoulder, and being somewhat weary, leaned back, put one hand to the ground on one side of him—the other on the other and sat down; evidently however on a very soft seat. Presently, what was his surprise to find his cushion alive. The truth flashed on his mind that he was sitting on a snake and he bounded at one spring beyond danger or fear, when lo! there lay, half-uncoiled, a huge rattlesnake, which he must nearly have touched with each bare hand as he took his seat. The fellow made off. Whether the hunter killed him or not, we are uncertain; but having yet life, he had strong claims to live.—*Wyoming Herald Wilkesbarre July 2d, 1834.*

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 3.

PHILADELPHIA, JULY 19, 1834.

NO. 344.

From the Philadelphia Gazette.

## PROCEEDINGS OF COUNCILS.

Thursday Evening, July 10.

### WEST PHILADELPHIA CANAL.

Mr. Chandler from the committee to visit the West Philadelphia Canal, made report as follows:—

To the Select and Common Councils of the City of Philadelphia.

The Committee to whom was referred a communication from the Western Canal Company, beg leave to report:—

That in the discharge of the duties assigned to them, they visited the works with several members of the company, and heard from them a statement of the situation of the corporation, were informed of the amount of work done, and what remained undone, of the expenditures already made, of the sums yet required, and also the amount received from subscriptions to stock and the sum unexpended. The committee also listened to a proposition from the company for further aid, and Councils are respectfully referred to the accompanying communication from the President of the company to the chairman of the committee, as embodying all the information that could be given on the subject, and setting forth the wishes of the stockholders.

The committee respectfully offers the subjoined resolution:

Whereas, it hath been represented by the West Philadelphia Canal Company, that they require a sum or loan of twelve thousand dollars to complete their works, which they propose to raise by a loan from individuals, of seven thousand dollars, and from the city of five thousand dollars, on the terms and conditions set forth in the ensuing resolution: Therefore,

Resolved, By the Select and Common Councils, &c. That in consideration of the said company's proceeding to complete their canal and works, the sum of five thousand dollars, be, and the same is hereby agreed to be lent to the West Philadelphia Canal Company, for the term of ten years, at an interest of six per centum per annum; Provided, that no part of the said sum shall be actually paid or advanced to the said Company until after their canal and works shall have been entirely completed in a workmanlike and durable manner, and the fact of such completion regularly certified, after examination, by competent persons; and the Canal aforesaid opened for the passage of vessels, and the said Company authorized to charge and receive tolls thereupon, nor until the whole amount of seven thousand dollars mentioned in the preamble to this resolution, shall have been actually lent, paid, and advanced to the said Company by individuals, and the whole corporate estate and effects, and tolls of the said Company conveyed in trust or mortgaged for the payment in the first place of interest, as it shall accrue, and ultimate re-payment of the principal of the whole loan of twelve thousand dollars mentioned in the foregoing preamble, without any preference or distinction among the several holders of said loan, and in prefer-

ence to all other liens, charges, incumbrances, except necessary repairs and expenses.

JOS. R. CHANDLER,  
W. M. MEREDITH,  
LAWRENCE LEWIS.

July 10, 1834.

28th June, 1834.

My dear Sir:—I regretted exceedingly that my absence from town prevented me meeting the committee of Councils the other afternoon at the West Philadelphia Canal, and I now take the liberty of repeating the statements which I understand were made to you, by the gentlemen who were fortunate enough to be present, in order that the committee may have before them the most accurate information on the subject.

When the project of a Canal round the Western abutment of the Permanent Bridge was first suggested, it was believed that the burden of its execution would necessarily fall on the owners of property, on and near the river, between the upper and middle Ferry bridges. They were, or at least some of them were willing to bear this burden, under the impression which they still retain, that they would be compensated for their outlay, by the tolls of the canal, or the improvement of their property. But they were very desirous of ascertaining exactly the sum for which they would be called upon, and to avoid the necessity of adding to the amount they had originally intended to devote to this purpose. I hope to show the Committee they took every reasonable precaution to prevent such an occurrence; and, that if others had complied with their engagements in the same good faith that most of the shareholders have done, the present application would never have been made.

In the outset it was determined not to put a spade into the ground until they obtained funds amply sufficient to complete the whole work. To ascertain what sum was necessary, they caused an accurate and liberal estimate to be made with large allowances for contingencies. This estimate has been tested by experience, and now when four-fifths of the work is done, the Board are satisfied the whole can be finished without exceeding its amount. The sum required was \$42,000, and it was not until \$41,600 were subscribed by stockholders supposed to be both able and willing to pay the instalments as they became due that contracts were made, and the canal commenced. It was, however, unfortunately discovered that some of the shares had been taken upon speculation, and that the subscribers finding it not likely to prove so profitable as they anticipated, transferred their shares to insolvents, under the impression that they thereby released themselves from all liability to the company, and now positively refuse to pay any thing upon them. The sum now due from stockholders, is \$13,116 33-100, of which \$1500 will probably be collected without much difficulty, leaving \$11,616 33 to be recovered by the tedious process of the law, if it can be recovered at all. The Committee will perceive that this latter sum is within \$383 67-100 of the amount the Company find it necessary to borrow.

To supply this deficiency, the Board have endeavoured without success, to obtain a loan upon the

general credit of the Company, and they now see no other means of completing their improvements, than an additional contribution from the land owners whose property will be specially advantaged by it. If all of these land owners were equally disposed to aid us, there would be little difficulty for a *reasonable* subscription, for the water fronts alone would give us a sum amply sufficient for our purposes, without calling upon the shareholders for an additional dollar. But many of them decline assisting us, and it is from a portion of them only, and those who have already paid more than their full share, that we have any expectation of obtaining additional resources. I need not suggest to the Committee that the city have in this matter an interest both as a land holder and as a corporation; and I think if the Committee will only stand on the Permanent bridge and observe the busle and activity prevailing below, and the comparative absence of improvement above, they will say that their receipts from increased taxes would more than repay in a single year any sum that they are asked to give, if the free access of sea vessels produces a change north of the bridge, such as we have witnessed within a few years south of it.

But I would also say, that considered only as a landholder, the city has not done more in proportion to their real estate on the river than several others, as will be seen from the annexed statement of the sums paid, and water front held by some of the stockholders. And the Board therefore indulge a confident hope, that as those who have already largely subscribed to the stock, are willing to go still further to relieve us from our present embarrassment, you will not be behind hand with them.

It may however be said, that the city will again be called upon by the Company, and that they will have no security, that even if they do come forward in the present instance, the work will be entirely completed. This objection is easily obviated. The charter requires that the canal, bridges, &c. shall be inspected by competent persons who shall certify that they have been constructed in all respects according to law, before the board is permitted to demand any toll, and the loan might be made conditional to be advanced, only 1st, when such certificate was given, and 2dly, after the balance of the sum required was obtained from other lenders. The city would then be sure to enjoy all the facilities afforded by the canal before they parted with a single dollar.

But the Board believe that the annexed memoranda will show the present state of the Company, and satisfy any one that the sum required will be sufficient to cover the whole cost. From them it appears the total Excavation was originally, 39,456 yds.  
Actually excavated by McIntyre, 13,274 "

Contracted to be excavated by Ingram & Edman, 26,182 "  
June 6th, 1834, 18,418 "

Balance to be excavated June 6th, 7,764 "  
More than four-fifths therefore of the whole excavation is done.

The whole cost of the walls, bridges, &c. per contract, will be, \$16,750  
Actually paid on acct., \$10,022  
Add 20 per cent retained, 2,004

Cost of work actually done, 12,026

Cost of work to be done, \$4,724

Thus three-fourths of the walls, bridges, &c., were finished by actual measurement on the 6th June inst., the day when the last estimate was sent in.

I am perfectly satisfied the observation of the Committee convinced them this estimate was correct, so far as the excavation is concerned; for in fact the only

part of the canal to be dug out, is that without the coffer dams and a few feet on the south of the walls.—There can be no mistake in the estimates of the walls, &c. which are all in one body, and easily susceptible of measurement.

By a resolution of the Board under an authority received from the stockholders, a mortgage has been prepared, pledging the whole corporate estate of the Company to secure a loan of \$15,000, or any part thereof, at 6 per cent. per annum. As that whole sum does not appear to be required, they propose to borrow only \$12,000, and they will *indeed* be disappointed if their receipts will not enable them to discharge the interest punctually. Under these circumstances they respectfully request the Councils to lend the Company the sum of \$5000 at an interest of 6 per cent. per annum.

Your obedient servant,  
(Signed) HENRY J. WILLIAMS,  
Pres't. W. P. C. Co.

To J. R. CHANDLER, Esq.  
Chairman of Com. of Councils.  
True Copy, ROWD. E. EVANS,  
Secretary.

Estimate of expenses already incurred, and to be incurred in completing the W. Philadelphia Canal.

Excavation,	\$12,548 46
Walls, bridges, &c.	16,750 00
Piling,	3,500 00
Piers,	1,500 00
Repairs from accidents & slips,	1,500 00
Damages and costs abt.	2,850 00
Contingencies,	3,500 00
	<u>\$42,148 46</u>

June 6. 7764 yards to be excavated—300 perches of wall to be put up—Bridges to be finished—Roads, fences, &c. to be made.

No 2.	
Amount of capital subscribed,	\$41,600 00
Money actually received,	28,486 07
Money actually expended,	27,957 15
Money due and unpaid on shares,	13,116 33
Money expected to be received from delinquent stockholders,	1,500 00
Sum supposed to be lost on subscriptions,	11,616 33
Estimated cost of canal,	42,000 00
Balance required, about	12,000 00

#### From the Lancaster Journal. LANCASTER COUNTY GOLD MINES.

Mr. Maxwell:—Having observed a paragraph, copied from a Pittsburg paper into some of the neighbouring journals, stating that several veins of gold have been discovered in this county, and that an incorporated company is about to commence working them—likewise expressing some fears for the morals of the community; it may be well to state, for the satisfaction of the *anxious editor*, that there has been a vein of copper discovered, the spurs of which contain some auriferous and argentiferous ores. The vein, it is hoped, may be worth pursuing for copper; but the idea is not entertained that it would be worth working for gold alone. A little may, perhaps, be extracted to assist in defraying the expense of mining.

There are several veins of auriferous quartz in the county, but until machinery is further improved, it is not likely they can be worked to any profit—unless it may be, where they are intersected by veins of copper and iron.

The act incorporating the Pennsylvania Mining Company, authorizes them to mine and extract ores of copper, gold, silver, lead and tin.

**OBSERVATIONS MADE BY ALFRED CREIGH,**  
*of Carlisle:—Commencing on the 1st February 1833, and*  
*ending the 31st day of December, 1834:—*

Giving an account of the weather, its heat or cold, at  
 9—12 and 3 o'clock—also of the wind, &c. &c., and  
 communicated to the Historical Society of Pennsylvania,  
 and by their order, now published.

\*The Thermometer which I have used is one of Pastorelli's  
 make, and kept in the entry, through which at all times, there was  
 a good draught of air."

**FEBRUARY.**

Days of the month.	9 o'clock.	12 o'clock.	3 o'clock.	Prevailing Wind.	Remarks.
1	22°	32°	34°	NW	Clear & cold
2	27	38	42	WNW	"
3	28	36	39	"	"
4	29½	37	39	NW	" cloudy
5	36	49	53	NW	"
6	38	46	42	SW	" very wi.
7	24	35	35	NW	"
8	27	42	44	NW	"
9	36	45	55	WNW	"
10	36	49	54	W	"
11	34	35	35	N	Sleet & snow
12	32	34	37	ENE	Rain, cloudy
13	35	35	35	NE	"
14	32	33	32	N	Clear
15	37	39	41	WNW	Cloudy, sno.
16	32	33	33	W	Clear
17	38	42	45	SW	Clear
18	45	47	51	W	Clear
19	43	47	49	S	Cloudy
20	46	54	56	SW	Clear
21	32	36	38	W	"
22	36	49	51	W	"
23	44	54	58	S	"
24	42	48	47	NE	Rain & snow
25	29	30	32	W	Clear, cold, w.
26	29	37	42	S	"
27	46	47	44	W	"
28	32	35	31	NE	Snow 7 inch.

**MARCH.**

Days of the month.	9 o'clock.	12 o'clock.	3 o'clock.	Prevailing Wind.	Remarks.
1	24°	24°	25°	W	Snow 3 inch.
2	16	18	14	NW	Clear
3	18	24	30	SW	"
4	26	28	29	NW	"
5	26	26	25	NW	Cloudy
6	29	33	36	"	Clear
7	31	38	41	S	"
8	36	45	45	"	"
9	37	42	46	W	"
10	43	45	45	N	"
11	38	48	52	E	"
12	40	40	40	E	Rain
13	36	40	40	W	Clear
14	38	42	42	S	"
15	46	52	55	W	"
16	42	58	54	NE	Cloudy
17	42	46	50	S	Clear
18	44	56	56	W	"
19	52	62	64	S	"
20	59	62	63	S	Cloudy
21	61	64	66	"	Clear
22	53	55	58	W	"
23	52	54	57	"	"
24	52	58	60	S	"
25	52	56	58	"	"
26	44	49	51	W	"
27	42	45	48	N	"
28	41	43	43	"	"
29	40	45	49	"	"
30	44	52	56	W	"
31	51	62	64	"	"

**APRIL**

Days of the month.	9 o'clock.	12 o'clock.	3 o'clock.	Prevailing Wind.	Remarks.
1	52°	62°	67°	W	Clear
2	51	67	68	S	"
3	51	57	58	"	Rain
4	58	64	70	W	Clear
5	54	58	58	N	"
6	50	53	62	N	"
7	53	55	55	S	Cloudy and Rain
8	50	61	66	E	"
9	58	63	66	N	Clear
10	59	65	68	"	"
11	57	66	69	ESE	"
12	58	66	63	SE	"
13	52	48	48	NE	Cloudy
14	54	56	58	W	Clear
15	49	52	54	E	"
16	46	48	50	E	Cloudy
17	54	56	59	ESE	Clear
18	58	60	62	W	"
19	59	64	68	WNW	"
20	64	70	70	S	"
21	58	68	72	S	"
22	64	68	71	ESE	" high wind
23	62	74	75	E	Cloudy
24	61	64	66	N	Rain
25	49	50	52	E	Clear
26	55	57	62	N	"
27	58	62	67	S	Cloudy
28	55	60	66	S	Clear
29	60	69	73	S	"
30	73	76	83	SW	"

**MAY**

Days of the month.	9 o'clock.	12 o'clock.	3 o'clock.	Prevailing Wind.	Remarks.
1	66°	70°	74°	ENE	Clear
2	67	75	79	"	"
3	62	64	67	NE	"
4	55	51	54	ESE	Rain
5	56	64	66	W	Clear
6	60	67	72	N	"
7	67	82	80	W	Rain
8	72	82	85	W	Clear
9	71	75	79	NE	"
10	60	62	61	E	Rain
11	61	65	67	"	"
12	68	72	75	ESE	"
13	72	78	80	S	"
14	64	70	72	N	Clear
15	70	72	75	NW	"
16	66	67	66	N	"
17	67	70	72	NE	"
18	71	79	81	SWW	"
19	72	74	76	E	Cloudy Clear Rain
20	68	67	67	NE	"
21	67	71	74	E	"
22	66	74	77	W	Clear
23	66	72	76	ESE	"
24	68	74	74	SE	"
25	64	65	66	"	Rain and Cloudy
26	59	62	62	ESE	"
27	60	64	64	W	Clear and Cloudy
28	65	68	68	SW	Rain
29	61	63	61	ESE	Clear
30	60	61	60	S	"
31	62	64	65	SW	Rain

(To be continued.)

## LAND TITLES.

(Continued from page 24 )

On the 8th of January, 1791, (chap. 1511,) the Board of Property was organized under the new constitution, with the same powers as before; and the Master of the Rolls was constituted a member of the Board with the three Land Officers—any three of them to form a Board. The Secretary of the Land Office to appoint days of hearing, and grant citations. All warrants to be under the lesser seal of the state, and signed by the governor. The form of patents prescribed, and to be under the great seal—See the notes to chap. 953, ante, pa. 14.

On the 29th of March, 1792, (chap. 1602,) an act was passed, allowing a credit for unsatisfied warrants. It was provided that where any warrants since the first of April, 1784, had issued, or should thereafter issue from the Land Office, and had not been, or could not be executed in the whole, or in part, by reason that the lands therein described, or some part of them, had been previously appropriated by or for any other person, or persons according to law, or having been executed, interfered with some prior appropriation, as aforesaid, the deputy surveyor of the district, or county, at the reasonable request of the party, his heirs, executors, administrators or assigns, was directed to certify to the Surveyor General's office, whether any, and how much of the lands in the said warrant described, had not been, or could not be surveyed, for the reasons aforesaid, or having been surveyed, interfered with prior surveys or appropriations; and the Surveyor General, having proof of the same, was enjoined, upon the like reasonable request, to certify to the Receiver General, the number of acres that remained unsatisfied, on any warrant issued after the first of April, 1784.

And whenever it should appear to the Receiver General, by original receipts or other legal voucher, or by entries made in his books, that any person had paid into the Land Office any moneys or certificate for lands granted to him, by virtue of warrants issued after the 1st of April, 1784, and which he had not obtained; or that he had paid any moneys or certificates over and above what was due to the commonwealth for the lands obtained by virtue of such warrants, he was enjoined to carry such money, or balance to the credit of such person, his heirs, executors, administrators or assigns, in payments then, or thereafter to become due, for the purchase of any lands within the commonwealth, together with lawful interest for the same, from the time of the original payment, to the time of such credit being applied for and made.

But by an act passed the 6th of March, 1793, (chap. 1648,) So much of the above act, as authorized the allowance of interest, on any money or balances, carried to the credit of any person, by virtue of the above act, from the time of the original payment, to the time of credit being applied for and made, was repealed; provided, that where such money has been paid, or balances had become due, prior to the passing of this supplement, interest was to be allowed upon such money, or balances, from the time of making the original payments, respectively, until the day of passing this supplement, and no longer.

And, from and after the 1st of January, 1795. All persons who should not previously apply for, and procure a credit to be entered in the books of the Receiver General, for any such money, or balances, was thenceforth to be forever barred and excluded from all claim, right, or title thereto, and to every part and parcel thereof, and from any benefit or advantage, which could, or might have been obtained, by, from or under the said recited act, and all such moneys, or balances, and the right and claim thereto, were declared from thence to become, and be, forever, forfeited and cancelled.

On the 3d of April, 1792, (chap. 1613,) an act was

passed, entitled, "An act for the sale of the vacant lands within this commonwealth."

Sect. 1. The price of all the vacant lands, within the purchase of 1768, and the preceding purchases, excepting such lands as had been previously settled on, or improved, was reduced to the sum of fifty shillings for every hundred acres; and the price of vacant lands, within the limits of the purchase of 1784, and lying east of Allegheny and Conewango creeks, was reduced to the sum of five pounds for every hundred acres; and the said lands were offered to any person or persons applying for the same, at the price aforesaid, in the manner and form accustomed under the laws in force.

Sect. 2. All the lands lying north and west of the rivers Ohio and Allegheny, and Conewango creek, except such parts thereof as had been, or thereafter should be, appropriated to any public, or charitable use, were offered for sale "to persons who will cultivate, improve and settle the same, or cause the same to be cultivated, improved and settled, at and for the price of seven pounds ten shillings for every hundred acres thereof, with an allowance of six per centum for roads and highways, to be located, surveyed and secured to such purchasers, in the manner herein after mentioned."

Sect. 3. "Upon the application of any person who may have settled and improved, or is desirous to settle and improve, a plantation within the limits aforesaid, to the Secretary of the Land Office, which application shall contain a particular description of the lands applied for, there shall be granted to him a warrant for any quantity of land within the said limits, not exceeding four hundred acres, requiring the Surveyor General to cause the same to be surveyed for the use of the grantee, his heirs, and assigns, forever, and make return thereof to the Surveyor General's office, within the term of six months next following, the grantee paying the purchase money, and all the usual fees of the Land Office.

Sect. 4. The Surveyor General to divide the lands offered for sale into districts, and appoint one deputy for each district, who shall give bond and security as usual, and reside within, or as near as possible to, his district, and within sixty days next after his appointment, certify to the Surveyor General the place where he shall keep his office open for the purpose of receiving warrants, that all persons who may apply for lands may be informed thereof. And every deputy surveyor, who shall receive any such warrant, shall make fair and clear entries thereof in a book, to be provided by him for the purpose, distinguishing therein, the name of the person therein mentioned, the quantity of land, date thereof, and the day on which he received the same, which book shall be opened at all reasonable hours, to every applicant, who shall be entitled to copies of any entries therein, to be certified as such, and signed by the deputy surveyor, the party paying one quarter of a dollar therefor.

Sect. 5. The deputy, at the reasonable request, and at the cost and charges of the grantees, to proceed to survey the lands in such warrants described, as nearly as may be, according to the respective priorities of their warrants; but they shall not survey any tract of land, that may have been actually settled and improved prior to the date of the entry of such warrant with the deputy surveyor of the district except for the owner of such settlement and improvement. And having perfected such surveys, shall enter the same in a book to be kept by him, and to be called the survey book, which shall remain in his office, liable to be inspected by any person whatsoever, upon payment of eleven pence for every search; and he shall cause copies of any such survey to be made out, and delivered to any person, upon the payment of one quarter of a dollar for each copy.

Sect. 6. Every survey made by a deputy out of his proper district shall be void, and of none effect. The

Surveyor General and his deputies, are enjoined to survey or cause to be surveyed, the full amount of land contained and mentioned in any warrant, in one entire tract, if the same can be found, in such manner and form, as that such tract shall not contain in front on any navigable river or lake, more than one half of the length, or depth of such tract, and to conform the lines of every survey in such manner, as to form the figure or plot thereof, as nearly as circumstances will admit, to an oblong, whose length shall not be greater than twice the breadth thereof. Ten per cent. surplus to be allowed, and paid for *pro rata*, on patenting.

Sect. 7. Every February, the deputy is to return into the office of the Surveyor General, plots of every survey he shall have made in pursuance of any warrant, connected together in one general draught, so far as they may be contiguous to each other, with the courses and distances of each line; the quantity of land contained in each survey, and the name of the person for whom the same was surveyed.

Sect. 8. "The deputy surveyor of the proper district shall, upon the application of any person who has made an actual settlement and improvement on lands lying north and west of the rivers Ohio and Allegheny, and Conewango creek, and upon such person paying the legal fees, survey and mark out the lines of the tract of land to which such person may, by conforming to the provisions of this act, become entitled by virtue of such settlement and improvement; provided, that he shall not survey more than four hundred acres for such person, and shall, in making such survey, conform himself to all the other regulations by this act prescribed."

Sect. 9. "No warrant or survey, to be issued or made in pursuance of this act, for lands lying north and west of the rivers Ohio and Allegheny, and Conewango creek, shall vest any title in or to the lands therein mentioned, unless the grantee has, prior to the date of such warrant, made, or caused to be made, or shall within the space of two years next after the date of the same, make, or cause to be made, an actual settlement thereon, by clearing, fencing and cultivating at least two acres for every hundred acres contained in one survey, erecting thereon a messuage for the habitation of man, and residing, or causing a family to reside thereon, for the space of five years next following his first settlement of the same, if he, or she, shall so long live; and that in default of such actual settlement and residence, it shall and may be lawful to and for this commonwealth to issue new warrants to other actual settlers for the said lands, or any part thereof, reciting the original warrants, and that actual settlements and residence have not been made in pursuance thereof, and so as often as defaults shall be made, for the time, and in the manner aforesaid, which new grants shall be under, and subject to all and every the regulations contained in this act. Provided always, nevertheless, that if any such actual settler, or any grantee in any such original or succeeding warrant shall, by force of arms of the enemies of the United States, be prevented from making such actual settlement, or be driven therefrom, and shall persist in his endeavours to make such actual settlement as aforesaid, then, in either case, he and his heirs shall be entitled to have and to hold the said lands, in the same manner, as if the actual settlement had been made and continued.

Sect. 10. The lands actually settled and improved according to the provisions of this act, to whosoever possession they may descend or come, shall be and remain liable or chargeable for the payment of the consideration or purchase money, at the rate aforesaid, for every hundred acres, and the interest thereon accruing from the dates of such improvements; and if such actual settler, not being hindered as aforesaid, by death, or the enemies of the United States shall neglect to apply for a warrant for the space of ten years after the time of passing this act, it shall and may be lawful for this com-

monwealth to grant the same lands, or any part thereof, to others, by warrants, reciting such defaults; and the grantees, complying with the regulations of this act, shall have, hold and enjoy the same, to them, their heirs and assigns; but no warrant shall be issued in pursuance of this act, until the purchase money shall be paid to the Receiver General of the Land Office.

Sect. 11. When any caveat is determined by the Board of Property, in manner heretofore used in this commonwealth, the patent shall nevertheless be stayed for the term of six months, within which time the party against whom the determination of the Board is, may enter his suit at common law, but not afterwards; and the party in whose favour the determination of the Board is, shall be deemed and taken to be in possession, to all the intents and purposes of trying the title, although the other party shall be in actual possession, which supposed possession, shall, nevertheless, have no effect upon the title; at the end of which term of six months aforesaid, if no suit is entered, a patent shall issue according to the determination of the Board, upon the applicant producing a certificate of the prothonotary of the proper county, that no suit is commenced, or if a suit is entered, a patent shall, at the determination of such suit, issue in common form to that party in whom the title is found by law; and in both cases, the patent shall be and remain a full and perfect title to the lands against all parties and privies to the said caveat or suit; with the usual saving to infants, &c.

Sect. 15. The holders of unsatisfied warrants heretofore issued agreeably to the 7th section of the act of 21st of December, 1784, may locate them in any district of vacant and unappropriated land within this commonwealth; provided the owners thereof shall be under the same regulations and restrictions, as other owners of warrants taken for lands lying north and west of Allegheny river, and Conewango creek, are made subject by this act, the said recited act, or any other acts to the contrary notwithstanding.

Much controversy has arisen out of this act. Its evident object was to encourage the population and improvement of the country. An important section has received various constructions. The consequences of unsettled titles are always certain. The population and improvement of the country have been impeded and retarded. Nineteen years have elapsed; but the dispute is still undecided, and whilst to the north, and to the west of these controverted lands, the country increases with industrious citizens, and smiles with cultivation; here the half-finished cabin and remaining forests, proclaim that the land is without a certain owner.

It is important in the consideration of this controversy, that at the time of passing this act, there existed a war between the United States, and the Indian nations, in the western country. The armies of the United States had experienced signal defeats from the savages. In 1791, General Harmar was defeated. On the 4th of November in the same year, General St. Clair was defeated with great slaughter. It was considered unsafe to attempt an immediate settlement, beyond the Allegheny in a country exposed to the inroads of a subtle and vindictive enemy, whose mode of warfare was peculiar; and whose approach was often in secret, and could not be guarded by common precaution.

On the 20th of August, 1794, General Wayne defeated the Indians at the Miamis; his treaty with them, was on the 3d of August, 1795, when hostilities ceased, and the treaty was ratified by the Senate of the United States, on the 3d of December, 1795.

In the lessee of Grant v. Eddy, before cited, both parties claimed under warrants issued by virtue of the act of 3d of April, 1792.

It appeared in the evidence that the defendant had paid into the Receiver General's office £420 on the 17th of November, 1792—£620 on the 10th of January, 1793—and £2170 on the 12th of August, 1793, besides the usual office fees. But the proof on the part

of the plaintiff was extremely defective in this particular. The certificate of the Receiver General charged the "Lands Dr. to Cash," and there was only one entry of cash credited, as applicable to the subjects in dispute, viz. £94 10s. 6d. on the 26th of January, 1793.

The lands lying east of the Allegheny river, were not subject to settlement conditions. A caveat had been filed on the part of the plaintiff on the 26th of February, 1793, and a decision of the Board of Property was had on the 26th of March, 1794, that the deputy surveyor should execute the defendant's warrants, the same having the priority in point of time, and well describing the lands. The present ejectment was commenced within six months thereafter.

By the Court. The warrants lately granted by the Land Office, bear equal date with the applications of the different parties. But the periods when they have actually issued, can only be ascertained from the payment of the purchase money. In this mode the time of issuing the defendant's warrants may be ascertained; but from the deficiency of the proof adduced by the plaintiff, it cannot be pronounced with certainty, when his warrants issued.

We know, however, that the applications of the defendant are earlier than those of the plaintiff, and that the former must succeed, provided the lands are described with convenient certainty, and the party has not incurred a forfeiture of his pretensions, by gross laches or delay.

Priority of application gives a certain degree of equity. The deputy surveyors, by the 5th section of the act of 3d of April, 1792, are directed to survey according to the priority of the warrants. But all applications must be pursued within a reasonable time by payment of the purchase money, and taking out warrants, and procuring surveys to be made. It would, under a different construction, lay in the power of the earliest applicant, to ingross and monopolize the whole country, by a long list of applications contiguous to each other; beginning at a certain fixed point, without paying a single shilling into the coffers of the state, until it suited his convenience! This never could have been the intention of the legislature.

What that reasonable time is, appears unnecessary to be determined, in the present suit; because it cannot come in question, unless it clearly appears that the lessor of the plaintiff has paid his money into the treasury sooner than the adverse party, and that the latter has been guilty of manifest negligence. Verdict for the defendant.

Lessee of Lewis Bond v. Robert Fitrandolph.

Ejectment for one message, and 400 acres of land on French creek.

This was a contest between two settlers, without warrants, to lands west of the river Allegheny, and on the east side of French creek.

In 1789, one Cornelius Vanhorne erected a cabin of heavy logs on the land. The lessor of the plaintiff in 1792, was an officer of the army under General Wayne, and was stationed by him, with a detachment of 28 men, at Cussewago, to protect the inhabitants from the Indians. During the winter he pulled down Vanhorne's cabin, and made rails of the logs. He erected a new cabin, fifty or sixty perches from the former, with the assistance of two soldiers, whom he hired for that purpose, and also cleared and fenced a field of ten acres, which had formerly been cultivated by the natives. In the spring of 1793, he planted one half of an acre of corn, and one half of an acre of potatoes; and was recalled the same spring, having first placed one Licquers, who had intermarried with an Indian woman, in his cabin, and contracted with a trader to supply him with meat and flour.

After Bond was withdrawn, the defendant in behalf of Vanhorne, forced Licquers from the possession of the tract, and in August, 1793, cut and made hay there-

on. He then fled, on hearing that no treaty had been concluded with the Indians. In the course of the following month he returned with his horses, broke up the field which had been fenced by Bond, (the rails whereof had been burnt,) put the fence in order and sowed turnips. On the eighth of May, 1794, he obtained a survey by William Power, a deputy surveyor, of 401 as. and 29 ps. in pursuance of his improvement, dated 1st of March, 1791. He lived on the lands, extending his improvements, erected three other houses, cleared and fenced 20 acres more of ground, and had the whole in good cultivation. Neither Bond nor Licquers had been in that country since 1794. They obtained no survey, nor did it appear that they had attempted to procure one.

On opening the plaintiff's title, it was objected, that he should have filed his caveat under the 11th section of the act of 3d of April, 1792, and have first tried his claim before the Board of Property.

By the court. The two clauses of the act refer to different objects. Though the words of the 11th section are general, they have been held not to extend to lands claimed under rights or contracts previous to the passing of this law. The law does not require *in terminis*, that a caveat shall be filed to try a title to lands. There are no words restrictive of the jurisdiction of the ordinary courts of justice in the first instance; and we will not, by construction, increase the powers of the Board of Property. The parol evidence, therefore, must be received. But what operation the bare improvement will have, where the plaintiff must recover, on showing a title, is another question.

After the testimony, and arguments were closed, the court delivered the following charge, in substance. This is a case of the first impression under the act of 3d of April, 1792. That law has introduced a new species of title; but whether it will efface the intentions of the legislature, time only can determine. In the mean while, it behoves us to move with caution, and to reflect fully before we form an opinion. No warrant exists on either side. Both parties claim as actual settlers and improvers under the 8th and 9th sections of the act. The plaintiff who must recover by his own strength, must bring himself clearly within the law. "On his conforming to the provisions of this act," depends the validity of his right. An application to the deputy surveyor of the district, and payment of the legal fees, form a part of that conformity. The plaintiff has given no survey in evidence, nor can we collect from presumption, that he has attempted to make one. His pretensions, therefore, are not designated, or defined. His house, and part of his original inclosure, are excluded by the defendant's survey. He cannot claim under agreed lines made by the predecessors of the defendant and others, while he sets up a title adverse to the former. How then shall his improvement be extended, or in what direction shall it go? Confining ourselves to the case now before us, we are of opinion that the plaintiff having shown no survey, nor even an attempt to make one, his claim is not recognized by the law, so as to entitle him to recover.

If the deputy surveyor had refused to do him justice, he might have complained thereof to the Surveyor General or the Board of Property: and he would then have evinced an endeavour, on his part, to conform to the law. But no pretext of that kind exists in the present case. Verdict for defendant.

Allegheny, May, 1797, before Yeates and Smith, justices. (MSS. Reports.)

That a recovery cannot be had on a mere settlement without a survey, was also held in the Lessee of Benoni Dawson v. William Laughlin, Allegheny, May, 1799, before the same judges. (MSS. Reports.)

In Hubley's Lessee v. Chew, before cited a caveat had been entered by the plaintiff against the defendant, on the 11th of April, 1793. The Board of Property decided in favor of the defendant; but stayed issuing

the patent for six months. The ejectment was not brought within the six months; but it was brought to April term, 1794, in the common pleas of Northumberland county, before any patent actually issued.

The defendant offered in evidence a patent dated 22d of March, 1796, to him, and insisted that the same was a full and perfect title to the lands against the plaintiff in the present suit, being grounded on the decision of the Board of Property, and no action had been entered at common law, by the plaintiff within six months after the determination.

On the ground that the patent was dated subsequent to the suit brought, the court were clearly of opinion it could not be evidence: But how far the words and intention of the legislature, in the law relied on, may effect an exception in the general practice, was the great question.

By the Court. We cheerfully disclaim all legislative power; but it will not be denied, that we possess the right of putting such construction on the acts of the legislature, as appears to us, best to accord with their intention, either expressed, or implied. We cannot construe a law differently from the plain, clear words of it, under any ideas of convenience or equity. Arguments *ab inconvenienti*, only apply where the law is dubious. It is sufficient for us to declare our opinion on the present question, that the 11th section of the act of 3d of April, 1792, does not extend to the case before us. We do not much regard the title of the law, it is said to be no part of a statute. But the preamble has considerable weight in discovering its meaning. Though it will not control the clear and positive words of the enacting part, it may explain them if ambiguous. The declared object of the whole act goes to the unsold and unsettled lands within the Indian purchase at fort Stanwix in 1768, and the preceding purchases; and to the vacant lands, included in the Indian purchase of 1784, at Fort M'Intosh.

All the provisions of the law go merely as to unappropriated lands; except that in the last section, it is directed, that unsatisfied warrants issued under a former law, may be located on vacant and unappropriated lands.

To comply, therefore, with the whole scope of the act, and declared intention of the legislature, the generality of the expressions in the beginning of the 11th section, "When any caveat is determined, &c." must necessarily be restrained to any caveat relating to lands then vacant and unappropriated. The clause in question cannot be extended, in our apprehension to caveats respecting other lands, held under rights or contracts, antecedent to the passing of this law.

The words of the section now under consideration, are not more large and comprehensive, than those used by the legislature in the 15th section of the act of 8th of April, 1785. "That in making any survey by any deputy surveyor, he shall not go out of his proper district, &c." Nevertheless, in the case of the Lessee of Alexander Wright v. Benjamin Wells, at Washington, May, 1793, M'Kean, C. J. and Yeates, after full argument, ruled that the expressions related solely to the lands purchased at Fort M'Intosh. (MSS. Reports.)

And in Albright and others, v. M'Ginnis's lessee. In the supreme court, December, 1799, it was solemnly adjudged by the whole court, "That the 11th section of the act of 3d of April, 1792, does not apply to cases of lands improved at the time of passing that law. (MSS. Reports.)

This decision is recognized, at Lancaster, June 2d, 1810, in Steinmetz v. Young, 2 Binney, 523. So that the construction is settled.

(To be continued.)

From the Commercial Herald.

#### SCHUYLKILL CANAL.

With the view of showing the importance of the Western trade, and of the Schuylkill Canal, as one of

the links of the great chain of Pennsylvania Canals and Rail Roads, we have made up an account of the operations on this Canal, from the 4th of March last, to the 4th inst, and present it below.

We have ascertained that last year, the tolls up to July 1st, were upwards of \$132,000, while this year, up to the same period, they amount to only \$102,000; showing a decrease in the receipts, of more than one-fourth.

#### DESCENDING NAVIGATION.

	Tons.
<i>Flour</i> —From the Union Canal	4,509
Reading	320
below Reading	714
(about 58,202 barrels.)	5,543
<i>Grain</i> —Union Canal	4,758
Kernsville	4
Schuylkill Haven	13
Reading	227
below Reading	112
(or 204,560 bushels.)	5,114
<i>Whiskey</i> —Union Canal	906
Kernsville	44
Reading	13
below Reading	44
(or 8,056 barrels.)	1,007
<i>Lumber</i> —Union Canal	6,176
Kernsville	451
Mont Carbon	245
Schuylkill Haven	280
Reading	157
below Reading	556
	7,865
<i>Coal</i> —Union Canal	761
Kernsville	10,637
Mont Carbon	25,685
Schuylkill Haven	12,222
below Reading	23,321
	72,626
<i>Castings</i> —Union Canal	822
Kernsville	210
Reading	320
below Reading	290
	1,642
<i>Iron, &amp;c.</i> —Union Canal	295
Kernsville	140
Reading	20
below Reading	153
Nails do.	557
Ore do.	638
	1,805
<i>Butter</i> —Union Canal	35
Mont Carbon	4
(or 87,360 lbs.)	39
<i>Tobacco</i> —Union Canal	232
Reading	2
	234
<i>Peltries</i> —Union Canal	25
<i>Cotton</i> —Union Canal	277
<i>Wool</i> —Union Canal	29
<i>Bark</i> —Union Canal	109
Kernsville	22
Mont Carbon	23
Schuylkill Haven	24
Reading	10
	188
<i>Leather</i> —Union Canal	109
Mont Carbon	1
Reading	1
	111

Limestone, 24,715; Sundries, 261; Marble, 163; Stone, 720; Wood, 556; Starch, 17; Rags, 13; Potash, 2; Oil, 14; Pork, 4; Bricks, 2 26,467

Total 124,447

## ASCENDING NAVIGATION.

<b>Merchandise</b> —To places below Reading	153
Reading	378
below Mont Carbon	232
Mont Carbon	233
Union Canal	6615
	— 7,611
<b>Fish</b> —Below Reading	13
Reading	44
below Mont Carbon	38
Mont Carbon	12
Union Canal	1319
(or 10,695 bbls.)	— 1,426
<b>Salt</b> —Below Reading	25
Reading	117
below Mont Carbon	62
Mont Carbon	21
Union Canal	1163
(About 55,000 bushels.)	— 1,388
<b>Plaster</b> —Below Reading	171
Reading	43
below Mont Carbon	22
Union Canal	2854
	— 3,090
<b>To different places, Burr Mill Stones, 44 tons;</b>	
<b>Lumber, 2443; Castings, 140; Iron, 442; Steel,</b>	
<b>7; Ore, 1144; Ale, 23; Coal, 1173; Flour,</b>	
<b>62; Grain, 98; Bacon, 5; Cider, 3; Bricks,</b>	
<b>245; Marble, 48; Wood, 160; Sundries, 173;</b>	
<b>Lime and Limestone, 1256; Stone and sand,</b>	
<b>365</b>	7,831
<b>Total</b>	21,344

For the Register.

## THE AMERICAN MOLE LOCUST.

No. 9.

"If Locusts deposit their eggs in young and tender branches of trees, must it not necessarily follow that the Pupa will rise in a few days in their vicinity?"

Locusts do not always deposit their eggs on trees, but in many plants such as Pear, Clover, Lambs-quarters, &c. to the last they give the preference, and as it is common, and grows every where in profusion, and as the eggs are concealed in the stalks, they may escape the vigilance of their enemy the Black Ants.

July 7th. I have not yet seen a young insect, but am informed some have already escaped from the egg.

"At what time did you first observe a deposit of eggs?"

On the 29th of May.

Pupa seldom appear in an alluvial soil

C. R.

LANCASTER, July 10, 1834.

## DREADFUL STORM.

On Wednesday afternoon, the 2d of July, a storm of unusual severity passed over the upper part of Wilkes-barre, Pittston, and Providence. Thunder and lightning—rain and hail, proceeding from a low black cloud, driven rapidly by the wind, gave a lively impression of Heaven's power in its wrath. Midst the lightning and thunder, hail stones flew like bullets at Bunker Hill, and the rattling, crash and confusion reminded one of the battle of Prague, if a thing like that popular piece may be mentioned in reference to a scene so grand and awful. We are pained to say that sixteen panes of glass were in an instant dashed to pieces in one bed chamber, while equal havoc were made in other parts

of the house. The stones were about the size of a hickory nut—some larger; one measured, the longest way, four inches—the ground was so covered, children gathered them up by handsfull—corn was cut into ribbons—wheat and rye injured, and the fields looked like desolation; yet we have reason to hope the damage to the crops near Wilkesbarre, not extensive. The storm was seen, but very slightly felt in the Borough.

On the mountains south-east of the borough, the cloud seemed stopped for a minute, and then whirled away in rapid motion. On visiting the spot, a vale of half a mile, formed by surrounding hills, seemed to have taken all the fury of the blast; for the tornado, checked by the hills, here turned into a whirlwind, and terrible was the destruction made among the timber. Huge hemlocks were uprooted, dashed to the ground, and shivered in their fall. Mighty oaks, that for 200 years had been shooting their stay-roots into the earth, were blown down, throwing up large mounds of earth—or if too firmly rooted in the rocks, then the power that dealt with them was seen; for stripped of every branch and bough, the naked trunk pointed to Heaven, a monument of blasting power; nothing escaped but those osier like saplings that had not enough power of resistance to be broken, but bended to the blast.

Hence the storm went north-eastward, and we learn, at Centreville, a populous and pleasant village in Providence township, on the Lackawanna, was very destructive, we give particulars below.—*Wyoming Her.*

Extract of a letter, dated

"PROVIDENCE, July 5th, 1834.

Mr. R. Miner:—

Dear Sir—In answer to your inquiries about the destruction of our village, by the high winds on Wednesday evening last, I will endeavor to give you a sketch of the sad catastrophe, but it will require an abler pen than mine to do it justice.

The tornado or whirlwind approaching from the west first destroyed a barn of Mr. W. Bennett's—next in course was the frame of the church recently put up, (40 by 50) which was a substantial one; the board kiln was blown down and burned up. A dwelling occupied by S. Church unroofed, and barn destroyed,—a new dwelling occupied by C. Cortright, unroofed and otherwise injured, the posts having been lifted out of their mortices. O. Burns' house and shop destroyed,—Mr. Nieherbacher's hotel unroofed and much injured;—his spacious shed, wood house, and old part of the dwelling, occupied by Mr. Snyder were totally destroyed. Mr. Cottrill's large store and dwelling on the west corner fronting both streets a part of which was the residence of J. H. Phinney, was whirled into the street, part of it, more than twenty feet, unroofed and rendered a complete wreck—the goods in the store not much damaged. The Centreville hotel, kept by himself, unroofed and otherwise damaged, and all his sheds and barn completely destroyed. The office of E. Potter Esq., turned a complete somerset, with himself and another man in it, and now lies bottom up. It went with such velocity that he must have been raised twenty-five feet from the ground, as he came down near the front door which he had been holding. Neither of them were seriously injured. Mr. Bailey's shoe shop was removed three feet, unroofed, siding and plank partly stripped off. Mr. Caldwell's wagon shop destroyed, Dr. Seever's house was unroofed and partly carried away,—windows and doors stove in, barn blown down the hill, and his cow killed in it. The building on the east corner, in which Mr. Vaughn resided and kept the Post Office, and Mr. Green a store, with the millinery shop of Mrs. Kirkham above was unroofed and much broken with pieces of other buildings driven against it.—Post Office papers preserved. A dwelling house occupied by three families, Mr. Calwell, Mrs. Benedict and Mr. Jelliffe, demolished; passing Mr. Jenks' dwell-

ling and the shop and dwelling of A. Dana, slightly injuring them, it destroyed the dwelling owned and occupied by Mr. McKinney, about twenty-five rods above. Mr. Cottrill's mill was unroofed and the back end blown into the river. The Turnpike Bridge across the Lackawanna, the string pieces of which were very large and long, was entirely carried off of the piers—the dwelling on the opposite side unroofed, and made a complete wreck, and barn unroofed. Half a mile above, Mr. Hermon's large shed destroyed—barn unroofed—another barn destroyed, and many fruit trees blown down. Also, the fulling mill of L. Smith unroofed, and other damages done in the vicinity to barns, fences &c. Two miles above this J. Vaughn's house and barn destroyed—several persons injured. There were also, other shops and barns destroyed in the village not before mentioned; making over thirty buildings totally or partially destroyed;—leaving six or eight dwellings in the village that were not unroofed; and only one barn.

Ere this the reader is anxious to know the fate of the sixteen families that were thus exposed to the ravages of the destructive element, rendered the more distressing by the rain which descended in *torrents*, while the heavens appeared in one continual blaze. With gratitude we acknowledge the hand of an overruling and protecting Providence. Not an individual was *killed* although many were buried beneath the ruins. Several were severely bruised, and the life of Mrs. Snyder is still doubtful. Also a son of Mr. McKinney about ten years old, may not be out of danger.

The destruction of property is great. Mr. Cottrill is the greatest sufferer as he owned nearly half the buildings destroyed or damaged. Mr. Nicherbacher's loss is also heavy, and Mr. Burns not only lost his *building* but furniture and clothing, as did others. One stage and several wagons and carriages were nearly ruined;—one wagon had *every spoke* broken from three of the hubs. Pieces of the fallen buildings may be seen scattered for 4 or 5 miles. Trees within a few rods of each other have fallen in opposite directions, and forces blown towards the south are surrounded by fragments of ruined buildings brought from the west—a pair of oxen were found two days after in the woods penned up by fallen trees and they uninjured. Trees along the Lackawanna from 6 to 18 inches thick twisted off, and crops considerably damaged.

The number of inhabitants left without cover that night I learn was 114; and the probable damage from 15 to 20 thousand dollars.

Yours with respect.

WILKESBARRE, JULY 9, 1834.

**DESTRUCTIVE TORNADO.**—The village of Centreville in Providence township, about twenty miles above this place, was laid in ruins on Wednesday evening last by a single blast of wind. We understand that twenty-eight buildings were blown down or removed, and ruined within a distance of 60 rods. The large tavern houses of Mr. Cottrill and Mr. Knickerbocker, were unroofed. A large store and dwelling house of Mr. Cottrill, which were united, were removed some 20 feet from their foundation, and so racked as to be worthless, though they were not prostrated. Several smaller dwelling houses were entirely blown down. A fine large meeting house recently raised and as yet uninclosed, was blown to pieces. A saw mill, belonging to Mr. Cottrill, was blown over and destroyed, and also his shed standing near his tavern. In this shed were 14 horses, not one of which was killed, though several were injured. A stage coach and several other carriages in the shed were crushed to pieces. The damage done by this destructive wind is estimated at ten thousand dollars, of which at least seven thousand dollars is the loss of Mr. Nathaniel Cottrill, an industrious enterprising man, who had labored for years in the ac-

quisition of a property, a large proportion of which has thus been swept away in an instant.

In one of the houses which was blown down, there were twelve or fourteen persons, some of whom were injured, but not an individual killed. The inmates of most of the houses escaped without serious injury. The wife of Mr. John Snyder and a lad are the only individuals, so far as we have heard, whose lives are despaired of.

We learn from gentlemen who have visited the place, that no adequate conception can be formed of the violence of the wind, without seeing the desolation and destruction it produced. Shingles were blown through the siding of buildings, which were left standing. Orchards were torn up by the roots, cattle dashed to the earth and killed, and we learn in the most authentic manner, that a new strong dearborn was driven by the wind some distance up the street, when from the hubs and rims of the forward wheels every spoke was drawn out, so that not a splinter remained in the places where the spokes belonged. Beside the damage done immediately at Razorville, several dwelling houses, barns, and outhouses a few miles beyond, were blown down and destroyed.

The blast occurred about nine o'clock on Wednesday evening last, and though it lasted but an instant, years will be required to repair its ravages as years have been employed in preparing the sport of its fury.—*Democrat*,

BLOOMSBURG, COL. CO. JULY 8.

On Thursday evening last, a most violent tornado or whirlwind passed through a part of Greenwood township in this county. In passing over the farm of a Mr. Kistner, it unroofed and carried away the upper story of his dwelling house, and demolished his barn; whirling the flying timbers to a considerable distance.

A remarkable interposition of a superintending Providence occurred in this disaster. After the house had been unroofed, a large tree was blown down and thrown on the remainder of the building; a child sleeping on the exposed floor, though covered with branches of the fallen tree, was preserved uninjured, and almost undisturbed, amid this crash of matter, whilst a bag of flour, as our informant states, standing on the same floor, was carried by the storm more than forty rods from the house. We have not heard of any other damages sustained of a serious nature.—*Register*.

FORT PITT, IN 1770.

There being no *fresh* news this morning, perhaps the following old news may be found interesting. In the year 1770, Washington visited Fort Pitt, (now Pittsburgh,) on his way to Kenhawa—during this journey he kept a diary, which we find in the second volume of Sparks' edition of his writings, from which we make the following extracts, in relation to this place—the dates commence October 17, 1770.—*Pittsb. Gaz.*

"Oct. 17th. Dr. Craik and myself, with Captain Crawford and others, arrived at Fort Pitt, distant from the Crossings forty three and a half measured miles. In riding this distance we passed over a great deal of exceedingly fine land, chiefly white oak, especially from Sewickley Creek to Turtle Creek, but the whole broken; resembling, as I think all the lands in this country do, the London lands. We lodged in what is called the town, distant about three hundred yards from the fort, at one Mr. Semple's, who keeps a very good house of entertainment. The houses, which are built of logs and ranged in streets, are on the Monongahela, and I suppose may be about twenty in number, and inhabited by Indian traders. The fort is built on the point between the rivers Allegheny and Monongahela, but not so near the pitch of it as Fort Duquesne stood. It is five sided and regular, two of which, near the land, are of

brick; the others stockade. A moat encompasses it. The garrison consists of two companies of Royal Irish, commanded by Capt. Edmondson.

18th. Dined in the fort with Col. Croghan and the officers of the garrison; supped there also, meeting with great civility from the gentlemen, and engaged to dine with Col. Croghan the next day, at his seat, about four miles up the Allegheny.

19th. Received a message from Col. Croghan, that the White Mingo and other chiefs of the six nations had something to say to me, and desiring that I would be at his house about eleven, where they were to meet. I went up and received a speech, with a string of wampum from the White Mingo, to the following effect.

"That as I was a person whom some of them remember to have seen, when I was sent on an embassy to the French, and most of them had heard of, they were come to bid me welcome to this country, and to desire that the people of Virginia would consider them as friends and brothers, linked together in one chain; that I would inform the governor, that it was their wish to live in peace and harmony with the white people, and that though there had been some unhappy differences between them and the people upon our frontiers, they were all made up, and they hoped forgotten; and concluded with saying, that their brothers of Virginia did not come among them and trade as the inhabitants of the other provinces did, from whence they were afraid that we did not look upon them with so friendly an eye as they could wish."

To this I answered, after thanking them for their friendly welcome, "that all the injuries and affronts, that had passed on either side, were now totally forgotten, and that I was sure nothing was more wished and desired by the people of Virginia, than to live in the strictest friendship with them; that the Virginians were a people not so much engaged in trade as the Pennsylvanians, which was the reason of their not being so frequently among them; but that it was possible they might for the time to come have stricter connections with them, and that I would acquaint the government with their desires."

After dining at Col. Croghan's we returned to Pittsburg. Colonel Croghan with us, who intended to accompany us part of the way down the river, having engaged an Indian called the Pheasant, and one Joseph Nicholson an interpreter, to attend us the whole voyage also a young Indian warrior.

20th. We embarked in a large canoe, with sufficient store of provisions and necessaries, and the following persons, besides Dr. Craik and myself, to wit: Captain Crawford, Joseph Nicholson, Robert Bell, William Harrison, Charles Morgan, and Daniel Rendon, a boy of Captain Crawford's and the Indians, who were in a canoe by themselves. From Fort Pitt we sent our horses and boys back to Captain Crawford's, with orders to meet us there again on the 14th day of November. Colonel Croghan, Lieutenant Hamilton, and Mr. Magee, set out with us. At two we dined at Mr. Magee's, and encamped ten miles below, and four above Logstown. We passed several huge islands, which appeared to be very good, as the bottoms also did on each side of the river, alternately; the hills on one side being opposite to the bottoms on the other, which seem generally to be about three or four hundred yards wide, and *vice versa*.

From this extract it appears that there were then about twenty houses at this point—this is the earliest account of the number of buildings in this place, and from Washington's well known accuracy, we may conclude that this estimate was very nearly accurate.

We well recollect Mr. Semple, and the house which he occupied—it stood at the corner, on Water street, and on the east side of Ferry street.

After having proceeded to Kenhawa, he returned again to this place, where he arrived on the 21st of

November, when he made the following entries in his diary:—

"Nov. 21st. Reached Fort Pitt in the afternoon distant from our last encampment twenty-five miles, and, as near as I can guess, thirty-five from the Mingo Town. The land between the Mingo Town and Pittsburg is of different kinds. For four or five miles after leaving the first mentioned place we passed over steep, hilly ground, covered with white oak, and a thin shallow soil. This was succeeded by a lively white oak land, less broken; and this again by rich land, the growth of which was chiefly white and red oak mixed; which lasted, with some intervals of indifferent ridges, all the way to Pittsburg. It was very observable that, as we left the river, the land grew better, which is a confirmation of the accounts I had before received, that the good bodies of land lie upon the heads of the runs and creeks; but in all my travels through this country, I have seen no large body of level land. On the branches of Racoon Creek there appears to be some good meadow ground, and on Shurtess Creek, over both of which we passed, the land looks well. The country between the Mingo Town and Fort Pitt appears to be well supplied with springs.

22d. Stayed at Pittsburg all day. Invited the officers and some other gentlemen to dinner with me at Semple's, among whom was one Dr. Connolly, nephew to Col. Croghan, a very sensible intelligent man, who had travelled over a good deal of this western country both by land and water, and who confirms Nicholson's account of the good land on the Shawnee river, up which he had been near four hundred miles. This country, (I mean on the Shawnee river,) according to Dr. Connolly's description, must be exceedingly desirable on many accounts. The climate is fine, the soil remarkably good; the lands well watered with good streams, and level enough for any kind of cultivation. Besides these advantages from nature, it has others not less important to a new settlement particularly game, which is so plentiful as to render the transportation of provisions thither, bread only excepted, altogether unnecessary. Dr. Connolly is so much delighted with the lands and climate on that river, that he wishes for nothing more, than to induce one hundred families to go there and live, that he might be among them. A new and most desirable government might be established there, to be bounded, according to his account, by the Ohio northward and westward, by the ridge that divides the waters of the Tennessee or Cherokee river southward and westward, and a line to be run from the falls of the Ohio, or above, so as to cross the Shawnee river above the fork of it. Dr. Connolly gives much the same account of land between Fort Chartres in the Illinois country, and Post St. Vincent, that Nicholson does, except in the article of water, which the Doctor says is bad, and in the summer scarce, there being little else than stagnant water to be met with.

23d. After settling with the Indians and people that attended me down the river, and defraying the sundry expenses accruing at Pittsburg, I set off on my return home; and after dining at the widow Miers's, on Turtle Creek, reached Mr. John Stephenson's in the night."

This Dr. Connolly subsequently made some figure in this country, and we find the following notice of him in one of Mr. Sparks' notes to volume third of the work from which we extract:—

John Connolly was a physician, and had resided for several years at Pittsburg. General Washington had known him there, and a correspondence had been carried on between them respecting lands and affairs in the west. At the beginning of the war, Connolly took the side of Lord Dunmore, and a project was concerted between them to stir up the Indians on the frontiers of Virginia, and induce them to act against the colonies. For some purpose towards promoting the execution of

the scheme, Connolly visited General Gage in Boston, and returned thence to Virginia, where he remained about ten days with Lord Dunmore, and then set off for the Ohio, with two companions. Near Hagarstown, in Maryland, they were stopped on suspicion, and brought back to Frederic Town. Their papers were examined and the plot discovered.

"It appeared, that Connolly had been appointed to the command of a regiment, which was to be raised in the western country and Canada. He was now on his way to Detroit, and, as soon as the forces could be collected, he was to enter Virginia, march to Alexandria in the spring, and meet there Lord Dunmore at the head of a naval armament and another body of troops. With these combined forces they were to act as circumstances should require.

"The committee at Frederic Town sent Connolly's papers to Congress, and he was himself immediately ordered to Philadelphia, where he was imprisoned for more than a year, and then was sent to a jail in Baltimore. He was afterwards allowed to go abroad within certain limits, on his parole, but he was held a prisoner till near the close of the war. He wrote several times to Gen. Washington, complaining of his hardships, but the General declined interfering, as he claimed no control over the prisoners of Congress. Indeed, it may be added, that Washington seldom manifested any sympathy for characters of this description. Prisoners taken in honourable warfare he always regarded with feelings of delicacy and kindness; but he rarely betrayed symptoms of compassion or favor for a man who had indicated a disposition unfriendly to the cause of his country."

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From the Williamsport Chronicle.

#### THE CELEBRATION—FOURTH OF JULY— OPENING OF A NEW SECTION OF THE W. B. CANAL.

We were favored, on the 4th instant with a visit by a party of ladies and gentlemen from Sunbury, Northumberland, Milton, and Muncy. In view of the contemplated visit, we said in last week's Chronicle, that it would "be made as agreeable as the attentions of our citizens could render it." We are now highly gratified, at being able to state that our citizens were not wanting in gallantry, and that nothing was spared that could contribute to the entertainment and gratification of our guests.

The Packet, "James Madison," left Northumberland on Thursday afternoon, with a number of ladies and gentlemen, from Sunbury and Northumberland on board; and after receiving several additions to their party, arrived at the head of the Canal Navigation, at Loyalsock, about 4 o'clock on Friday. This is the first passage that has been made on the new section of the Canal from Muncy to Loyalsock. We are happy to state that it was in excellent order, and the boat passed through very pleasantly, without the slightest interruption. As the boat approached the first lock below the creek, a salute was fired in honor of the company and of the occasion, by the "Williamsport Guards," under command of Captain Grafius. At the towing path bridge over Loyalsock, the compliment was repeated by the "Muncy Guards," both of which companies had been spending the day in the neighborhood. The party passed immediately on to the place of landing, where they were received in handsome style by the "Lycoming Cavalry," under command of Captain Cowden. A salute was fired, and other honors paid; after which the company debarked, and entered the carriages that had been prepared for their reception by a committee of arrangement appointed for that purpose. The carriages were received by the "Cavalry," in open order, and escorted to town, where they arrived about five o'clock. On their arrival here, they were joined by

the "Lafayette Rangers." The whole procession passed up Main street to Market, up Market to Fourth, up Fourth to Pine, down Pine to Third, down Third to the Hotel of Mr. Thomas Hall, where the party afterwards dined.

It was an imposing spectacle, to witness the approach of between twenty and thirty carriages—containing the youth and beauty of our neighboring towns—each flanked by a trooper on either side, with all our citizens, old and young, greeting their arrival with joyous countenances. It was among the grandest displays ever witnessed in our quiet borough; and it serves clearly to show what our citizens can accomplish, in a matter in which their feelings are interested, and especially where their public spirit is concerned.

Immediately after their arrival here, the company, consisting of upwards of one hundred persons—of whom a majority were ladies—sat down to a sumptuous feast, prepared in Mr. Hall's best style.

After dinner, a promenade was proposed. A procession was immediately arranged in good order, and the party proceeded through the town, admiring the improvements in our flourishing village. The promenade was continued to the river bank, where the whole party united in the unreserved expression of their admiration of the surrounding country. The towering "Bald Eagle Mountains" standing out in bold relief immediately opposite; numerous small hills in the perspective, all handsomely adorned with the verdure of the season; the placid Susquehanna, flowing smoothly along the mountain's base; the whole picture beautifully mellowed by the yellow tints of the setting sun, forming altogether a view that could not fail to gratify the most romantic taste.

On Saturday morning, the party returned to Loyalsock, where they re-embarked, and were accompanied a short distance down the canal by a number of our citizens. They parted at the first lock, all highly gratified, doubtless, with the manner in which the previous day had been spent; and grateful that not an unpleasant incident had occurred to interfere with the pleasures of the day. The weather throughout was very fine.

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From the Blairsville Record.

#### SKETCHES

*Of the First Settlement of Indiana County.*

No. 2.\*

A scarcity of provisions was one of the constant dangers of the first settlers, and to make their case worse, there were no mills, even after they began to raise grain. The first year some Indian corn was planted. It grew, and in the form of "roasting ears," was gladly gathered for food. I can see, "in my mind's eye, Horation," the hardy dame, with her home made apron of "Iye color and White," pinned round her waist, stepping cautiously between the rows of corn, selecting the finest, that is to say, the best ears for dinner; aye, and for breakfast and supper too.

When the grains got hard, it made good hominy. Reader, didst ever eat hominy? If thou hast not, one of the good things of this world hath escaped thy notice entirely!

About the year 1773, William Bracken built a mill near where William Clark, Esq. lately resided on Blacklick, which was a great convenience to the settlers. They marked out a path, (they had never heard of rail roads, canals, or even turnpikes,) by which they travelled to Bracken's Mill. I see one of them before me, his bridle, or rather the bridle of his horse, is of hickory bark, and he rides on a packsaddle!

About the year 1774, Samuel Moorhead commenced building a mill on Stony Run, where Andrew Dixon's

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\* For No. 1, see Vol. xii. page 184.

Sawmill now stands,—but before it was completed, the settlers were driven off by the Indians. They fled to what was then called the Sewickly Settlement. This was called Dunmore's war; by some of the old settlers it was called the civil war; but I don't know why. They lost their cattle and their crops. However, they returned in the fall to their improvements, and Moorhead completed his mill.

The Indians were living on the Allegheny river at this time. They had a town called Hickory town—another called Mahoning—also Puxatawney, (or Gnat or Musquitoe town.) At their leisure, and they contrived to have a good deal, they stole the white men's horses, and showed symptoms of no doubtful character as to their feelings towards their new neighbors.

By this time the disputes between the Colonies and the Mother Country blazed out into war. The war, the most important in its effects, that faithful history has ever recorded, reached even the hardy settlers of Indiana.

About 1775 or '6, a regiment or battalion of soldiers was sent to Kittanning, to build a Fort, for the protection of the frontiers. This drove the Indians into open hostility.

MOHULBUCTEETAM.

## UNITED STATES BANK.

### IMPORTANT CORRESPONDENCE.

NEW YORK, July 10, 1834.

Sir—At a meeting of many merchants and others interested in commerce, in this city, the undersigned were appointed a Committee to express to you, and to the Board of Directors of the United States Bank, over which you preside, the following views:

A large portion of the difficulties under which the commercial community have labored for some months past, has arisen from the restrictions deemed necessary on the part of the Bank of the United States, in the differences existing between the Executive of the General Government and it—and so long as there seemed just ground for the continuance of such restrictions upon its issues and accommodations to the mercantile public—all the efforts of the New York commercial men were confined to endeavors to render them as little burthensome as possible, and to endure them with the firmness and by the sacrifices called forth by evils deemed inevitable. All agree that the pressure has been one of the most severe, and the most extensive ever known in our country—and that it has been sustained in a manner to elevate the character and to make known the resources of our mercantile community.

So long as Congress continued in session, it was not deemed hopeless to look for some decision upon the great questions of finance, which were agitating our country from its centre to its extremities, and that measures of relief would naturally have flowed from the definite action of the National Legislature—but disappointed in this expectation, we are of opinion that the time has now arrived when the United States Bank, in safety beyond all contingency, with resources abundant and increasing beyond all example,—can and ought to come forward to the relief and support of the commercial interests of the country—and we will not doubt its concurrence with us in these views, which so naturally result from premises, which must be equally apparent to it and to us.

In the true spirit which should ever characterize the intercourse between mercantile men, and the direction of the great organ of commerce, a national bank, (and in the increased necessity for such an institution, our latter experience confirms our former opinions,) we will frankly state our views to be, that the system of restriction adopted by the bank last autumn, should be entirely abandoned, and in its stead, that a course of free and useful enlargement of its loans, should be substituted, to the extent of five to ten millions of dollars—

at such places, in such amounts and in such a manner, as may most effectually restore the operations of the bank to its former beneficial influence, and meet the object proposed, of reviving public confidence, and of giving relief and support to a community, accustomed to rely upon bank facilities, for the commencement and continuance of their usual commerce and trade.

These, of late, have been most unfortunately interrupted, if not paralyzed, and cannot be generally or usefully renewed except by the full and free co-operation of the United States Bank, as now indicated—especially by those who, although rich in enterprise, skill, and character, are yet deficient in actual capital—a class which constitutes the bone and sinew of our community, and is destined ere long, unless prevented by a continuance of untoward events, to furnish leading men in influence and wealth.

By such a course adopted by the United States Bank, publicly proclaimed and zealously persevered in for 12 months at least, (which will afford ample time for any measures of precaution on its part, prior to 1836,) the most beneficial consequences would be secured—the almost extinct impulse of private credit would be revived—many of the great evils of our present condition would be removed—the usual facilities of business in all its ramifications, would be promoted—the recent lessons of suffering would be a security against overtrading, and the commerce and trade of the nation would at least, measurably, resume activity, vigor and prosperity.

The intercourse of the Bank with its customers would thus be replaced upon its former footing of mutual benefit, and the interest of both be promoted by so natural and so wise a policy, which to be of the greatest advantage, should be of the longest possible duration, so understood by all parties.

We have the honor to remain,

With the highest respect, sir,

Your obedient servants,

JAMES BROWN,  
JOHN HAGGERLY,  
JAMES G. KING,  
CHAS. H. RUSSELL,  
GEO. GRISWOLD,  
THOS. TILESTON,  
J. W. LEAVITT,  
JON. GOODHUE,  
JOHN A. STEVENS.

To N. BIDDLE, Esq. President of the United States Bank, Philadelphia.

BANK OF THE UNITED STATES, }  
July 11, 1834. }

Gentlemen—I have had the honor to receive your letter of the 10th inst., which was immediately submitted to the Board of Directors, from whom it could not fail to receive the respectful consideration due to the signers of it.

The general subject of which it treats, has, as you may naturally suppose, engaged the early and anxious attention of the Directors. For some months past, the principal object of their measures has been to provide for the safety, and to maintain the credit of the Bank, at all hazards.

The restrictions upon its business, which they were under the necessity of imposing for this purpose, were as painful to the Board of Directors as to the community, and they confidently trusted that the national legislature, if it sanctioned the measures which rendered these restraints necessary, would have provided other means of mitigating their inevitable pressure. But the adjournment of Congress without adopting any measures either of redress to the Bank or of relief to the community, places both the Bank and the country in a new relation to each other, and imposes upon the dim-

inished ability of the bank an extraordinary demand for its assistance.

To that claim the Board of Directors cannot be insensible. They feel that the prosperity of the Bank is completely identified with that of the country, and they deem it not merely a duty, but a gratification, to interpose wherever the resources of the Bank can be safely employed in the relief and support of the great interests of the community. Accordingly on the 27th ult. — when it was perceived that Congress was about to adjourn without adopting any measures for the relief of the country, the Board appointed a committee to consider the new duties which that event might devolve upon the Bank, and their report was this day adopted.

The report contemplates two objects; the first is to put an immediate end to all the curtailments of the loans hitherto directed, a measure which was forthwith adopted—the second regards the future expansion of the loans of the Bank—a subject, as you are aware, of far greater difficulty and delicacy. The long experience, and the sagacity in business for which so many of you, gentlemen, are distinguished, will, I think, readily suggest to you that a general public declaration of a purpose to add to the loans of the Bank a sum of from five to ten millions of dollars, might be productive of great disadvantage, as well to the Bank as to the public, and that the more prudent course of expansion, if any be necessary, would be to increase the loans cautiously, and gently, at those points which most require relief.

To such a policy the Board are well disposed—and they will proceed to the consideration of your views with every disposition to concur in them, so far as the state of the Institution and the principles on which they think it prudent to conduct its affairs, will permit.

I have the honor to be

Respectfully yours,

N. BIDDLE, President.

To Messrs. James Brown, John Haggerty,  
James G. King, C. H. Russell,  
G. Griswold, Thomas Tileston,  
John W. Smith, John A. Stevens,  
J. Goodhue. J. W. Leavitt New York.

From the Kittanning Gazette.

## INTERESTS AND CAPABILITIES OF ARMSTRONG COUNTY.

Continued from page 29.

No. 4.

### SHEEP.

Perhaps, taking every thing into consideration, there is no animal of greater importance to mankind than the Sheep. Were it not that we can transfer its coat from its back to our own, we could scarcely pass through our inclement winter with any degree of comfort. Its rich, soft fleece also constitutes a most important article in the commerce and manufactures of the whole civilized world. England, notwithstanding her dense population, supports millions of sheep; the same may be said of Flanders, and all the adjacent region. Wool is at this day one of the principal items in the commerce of Spain. In the United States, where land is cheaper and less taxed than in any other country of equal civilization, sheep have not received that general attention which their importance demanded. With too many farmers they are looked upon as an unimportant appendage to their stock, to be cared for when there is nothing else to care for, and to be retained or parted with, increased or diminished, as the most trifling contingencies may dictate. But we think the time is approaching when they will rise to their proper rank in the estimation of the farmer, and from being a part of his property scarcely thought worth estimating, become a prolific source of individual and general wealth.

The market for wool is ever open, and generally steady; and the canals open to the people of the west an easy and cheap access to it. There is therefore every inducement to our farmers to enter vigorously into the wool-growing business.

Feeling that we were not competent, from the want of experience and observation, to give such a treatise on this important subject as we could wish, we addressed a letter to John Patterson, Esq. of Rural Valley, Wayne township, containing a number of distinct inquiries on the subject. His reply we now lay before our readers with great satisfaction.

RURAL VALLEY, July 3, 1834.

Mr. Copley,

Dear Sir—Owing to my absence from home, I did not receive yours of the 26th ultimo, until yesterday; and other engagements now prevent my devoting that time to your "inquiries" which their importance demands, and with which I would cheerfully comply if time permitted.

I will embrace this early moment to give you a brief answer to each inquiry, which, if they shall be of any service to you in the good cause you are espousing—"the interests of the county"—you may rely on their correctness, and make such use of them as you see proper.

Your first inquiry is,

"Are you of opinion that this county is well adapted to the raising of Sheep?"

That Armstrong county is well adapted to raising sheep, no one acquainted with their nature will doubt. Indeed I think it is not surpassed in that respect by any county in the state. The poorer parts of the lands in this county are just such as the wool grower would take of choice for his sheep. I have discovered that many of the farmers of this county are of opinion that our climate is too cold and frosty for raising the finer quality of sheep. In this, sir, they are entirely mistaken, of which, it would take but little experience to convince them.

2d "Do you not believe it would be to the interest of the farmers generally to keep more of them, for the sake of the wool?"

Nothing would increase the wealth of this county more rapidly than for the farmers to turn more of their attention to sheep, and increase their flocks in quality as well as numbers.

Washington and Fayette counties in this state, Brooke county, Virginia, and Jefferson and Belmont counties, Ohio, are perhaps the most wealthy counties west of the Allegheny mountain; and the inhabitants will principally all point to their flocks of sheep, as the source of their wealth. There the greater number of the farmers, if they have one hundred acres of cleared land on their farms, will keep from one hundred to two hundred and fifty head of sheep; and many who have larger farms keep from 800 to 1000 head of sheep.

3d. "Do you not think it bad policy to sell off so many to the drovers?"

It cannot be doubted but what it is bad policy in the farmers of this county to sell off so many of their sheep every year to the drovers; but in doing this, I presume many of them do not consult what is their best policy, but are guided by what they suppose to be *necessity*, which is said to have no law. It is to be hoped that this traffic will in a great measure cease, for at least a few years.

4th. "What is the relative expense of keeping sheep and horned cattle?"

The relative expense of keeping sheep and horned cattle, was formerly estimated at six to one, that is, it would cost as much to keep one head of horned cattle through the year as it would to keep six head of sheep; but later experience has convinced all who have tried

it, that eight sheep can be kept for as small a cost as one head of horned cattle. I am myself confirmed in the latter opinion. But that no one may consider my calculation exaggerated, I will say the former, and make a calculation accordingly.

The average price of horned cattle (not fattened) in our county is \$10, that is, when they are three years old. To enable a farmer to have one of them to sell each year, he will at least have three to keep each year, viz. his breeder, a two-year-old, and a year-ling. The first cost of these would at least be as great as that of eighteen sheep, and to hold his original number, he could sell but one each year, which would not exceed \$10 on an average: so the yearly income from three head of cattle is \$10. Now let us see what the yearly income of 18 of our common sheep would be. We will average their fleeces at 75 cents each, and their increase in number at 33½ per cent., which would leave 18 fleeces, and 6 sheep for sale each year.

18 fleeces of wool, at 75 cts. would be \$13 50  
6 sheep, at \$1 each, " 6 00

\$19 50

From this low calculation you will see that it is nearly 100 per cent. more profitable to the farmer to keep sheep than cattle. I am convinced that it is more than 100 per cent., and that any one will find it so who will try the experiment. The calculation I have here made is low, and made for our common woolled sheep; by an improved quality of sheep it would be increased 25 per cent. at least.

Thirty acres of our ordinary land, by having three or four acres of it in meadow, will keep well throughout the year, one hundred sheep which, agreeably to the above low calculation, will produce a yearly income of \$108 33½. It is impossible, sir, for the farmer, with so little labor, to have so great an income from that number of acres in any other way.

5th. "Are you of the opinion (all things considered) that Merinos are more profitable than the common sheep?"

Taking every thing into consideration, I have no hesitation in saying that the half or three-fourths blooded Merino sheep are at least 25 per cent. more profitable than our common woolled sheep. The calculation is, that a flock of these kind of sheep will average half a pound more wool to the fleece than the common sheep, and about three-fourths of a pound more than the full blooded Merino. The usual difference in the price of common wool and half-blooded merino wool has been 33½ per cent. but never less than 25 per cent.; and it is a fact which I have sufficiently tested, that those kinds of sheep will sell to the feeders for mutton, at least 25 per cent. higher than the common sheep; and it is a fact which all admit who have tried the experiment, that the merino sheep are more easily kept than the common ones. The fact is now evidently proven in my own small flock, which consists in part of common sheep and part merino. They have run in the same flock since last fall, and received the same keeping; and at this time there is scarcely one of my merinos but would make fine mutton, whereas not one of the others is fit for mutton.

I consider the half or three fourths blooded merino sheep larger, more hardy and healthy, and more profitable to the farmer than even the prime blooded, and unquestionably more so than the common.

6th. "What weight of washed wool do ordinarily good sheep average each?"

A flock of our common sheep will average from 2½ to 3 lbs. to each fleece; half blooded merinos generally exceed 3 lbs. and the full blooded seldom more than 2½ lbs. I have known flocks of one half and three-fourths blood to average 3½ lbs. to the fleece.

7th. "Can good breeders be obtained in Washington county at a reasonable expense?"

Good breeders, I am credibly informed, can be bought at this time in Washington county, or either of those counties I have mentioned, at from two to three dollars per head for ewes, and from five to ten for bucks.

8th. "Is not Mercer county following the example of Washington in this respect?"

I think the farmers of Mercer county are turning more of their attention to sheep than formerly, and are rapidly introducing the merino.

9th. "Have you any Merinos in your flock? if so, have you breeders to dispose of?"

I have a small lot of the finest quality of merino sheep, which, as I before stated, is doing well—amongst which I have three or four bucks and ten or twelve ewes, which I would sell at a fair price.

Yours respectfully,

JOHN PATTERSON.

We subjoin the following valuable article on the art of managing sheep, so that this number may be complete in all its parts. We earnestly commend it to the attention of our farmers; for it is an incontestable fact that in this county the raising of sheep for the wool, might soon become the principal source of wealth.—Mr. Patterson has demonstrated that they are much more profitable than horned cattle—the best blood may be introduced largely at a very trifling expense; then surely we may reasonably indulge the hope that on this branch of our subject, at least, we have not labored in vain.

#### ART OF MANAGING SHEEP.

To the Editor of the Farmer & Gardener:

Sir:—I have been very desirous of ascertaining the particular method in which Mr. Barney of Philadelphia, manages his sheep, that enables him far to exceed every body else in producing fine mutton, and good wool.

On his late visit to this city, I put the question to him, wherein consisted his superior management of sheep? he gave the following reply.—He said, a gentleman visited him not long since, and on going to his sheep yard, and viewing it, asked him the same question. He showed at that time from 50 ewes, upwards of sixty lambs, all lively and brisk, with a loss, I think he said, of three or four. The gentleman observed to him that he had his shed covered with dead lambs, and asked wherein the secret in breeding lay. Mr. Barney observed to him, you stuff your sheep with dry food. Yes, as much good clover hay as they will eat, was the reply. Mr. B.—You give them no water, but suffer them to go out in time of snow, and eat as they are disposed to do? Yes. Then said Mr. Barney, there lies the secret. Your sheep fill themselves with dry hay; they get no water; and they have not a sufficient supply of gastric juice to promote the digestion of hay in the stomach; they cannot raise it to chew the cud; they lose their appetite; are thrown into a fever; and cannot bring forth their young, or they bring forth a feeble, starved lamb, that falls off and dies the first exposure to the cold rain. On the contrary, I take care to provide my sheep with good clear water in summer and winter. I feed them regularly with hay in the winter, and give them ruta бага and mangel wurtzel every day. The ewes produce me 120 per cent. increase in lambs. You cannot, says Mr. Barney, get along without ruta бага and mangel wurtzel.

It is Mr. Barney's opinion, that sheep are the most profitable stock that a man can raise; and it appears he makes use of no expensive food, or increased quantity of it. But the secret of raising good stock of every kind, consists in maintaining that regular and cleanly mode of proceeding which preserves the digestive organs of the animal in a healthy state, and enables them to convert what they eat into chyle, suitable for the nourishment of the animal.

Respectfully yours,

(To be continued.)

A,

From the Philadelphia Gazette.

## PROCEEDINGS OF SELECT COUNCIL.

Thursday Evening, July 10.

Mr. Price presented a petition from the Councils of Camden, respecting the bathing establishment on Wind-mill Island, which was referred to the Mayor, with a recommendation that he shall take such measures as he may think expedient to abate the nuisance.

Mr. Price presented the following report of the directors of poor tax.

To the Select and Common Council.

The directors of poor tax request leave to submit their annual report.

That in conformity to the provisions of the act of Assembly, the board was duly organized at the appointed time, and proceeded to examine the estimates made by the guardians, of the probable amount required for the relief, support and employment of the poor, for the current year.

After due consideration the directors have resolved to fix the rate of poor tax at thirty-four cents in every 100 dollars, agreeably to the last county assessment, and the same rate of personal tax as fixed by the county.

The total value of the Real Estate, in the several districts, as rated at the last county assessment, is as follows, viz:

Northern Liberties	\$4,011,570 00
Southwark	2,349,315 00
Spring Garden	3,378,902 00

Kensington 1,897,726 00

City of Philadelphia \$11,637,513 00

25,642,968 00

Total \$37,280 481 00

The total amount of poor tax, being 34 cents in every 100 dollars, the personal tax, and the tax on dogs, is as follows, viz:

Real Estate	\$126,755 84
Personal tax	9,997 00
Tax on dogs	1,995 00

Total \$138,747 84

This amount is assessed and collected from the following districts, which are included in operation of the poor laws.

Northern Liberties	\$15,664 51
Southwark	9,160 44
Spring Garden including P. Township	12,938 83
Kensington, including unincorporated Northern Liberties	7,789 76

\$45,553 54

City of Philadelphia 93,194 30

Total \$138,747 84

Herewith is annexed, a table, showing the amount assessed and collected, in each ward and section, composing the several districts. Respectfully submitted.

RICHARD PRICE, Secretary.

Districts composing the Poor Tax.	Assessed County Rates.	Real Estate.	Dogs.	Personal.	TOTAL.
City.—1. Upper Delaware ward,	1,267,229 00	4,308 49	27 50	376 20	4,712 19
2. North Mulberry "	877,157 00	2,982 69	67 50	410 40	3,460 59
3. Lower Delaware "	1,632,508 00	5,516 57	41 50	434 80	5,992 87
4. South Mulberry "	1,204,576 00	4,095 61	62 00	423 97	4,581 58
5. High Street "	3,221,730 00	10,953 69	17 50	317 98	11,289 17
6. North "	1,833,937 00	6,235 39	33 00	454 34	6,722 73
7. Chesnut "	3,257,139 00	11,074 19	29 50	289 08	11,392 77
8. Middle "	1,503,970 00	5,113 57	13 00	298 14	5,424 71
9. Walnut "	2,136,515 00	7,263 94	17 50	229 20	7,510 64
10. South "	1,815,233 00	6,137 55	31 50	296 05	6,465 10
11. Dock "	2,081,011 00	7,075 57	47 00	445 32	7,567 89
12. Locust "	1,801,231 00	6,124 23	40 00	492 18	6,656 41
13. Pine "	1,158,590 00	3,871 16	34 00	292 95	4,198 11
14. New Market "	1,063,897 00	3,617 54	78 50	363 05	4,059 09
15. Cedar "	828,245 00	2,816 25	74 00	270 20	3,160 45
	25,642,968 00	87,186 44	614 00	5,393 86	93,194 30
Southwark.—East Southwark,	1,517,440 00	4,479 20	98 50	419 00	4,996 70
West Southwark,	1,031,875 00	3,508 94	122 00	532 80	4,163 74
	2,349,315 00	7,988 14	220 50	951 80	9,160 44
Northern Liberties.—First ward,	719,954 00	2,447 88	40 00	228 15	2,716 03
Second "	645,295 00	2,193 98	13 00	220 25	2,427 23
Third "	541,199 00	1,840 25	50 00	229 15	2,119 40
Fourth "	556,316 00	1,892 58	43 00	213 80	2,149 38
Fifth "	660,226 00	2,244 90	70 50	269 20	2,584 60
Sixth "	434,485 00	1,477 28	48 50	239 05	1,764 83
Seventh "	453,895 00	1,543 49	110 50	249 05	1,903 04
	4,011,570 00	13,640 36	375 50	1,648 65	15,664 51
Spring Garden.—First ward,	709,507 00	2,412 45	73 50	328 60	2,814 55
Second "	850,637 00	2,892 09	85 50	194 24	3,171 83
Third "	486,794 00	1,654 90	63 50	185 55	1,963 95
Fourth "	452,420 00	1,539 04	34 00	192 60	1,765 64
Peun Township	879,524 00	2,990 36	135 00	157 50	3,282 86
	3,378,902 00	11,488 84	391 50	1,058 49	12,938 83
Kensington.—East Kensington	629,314 00	2,139 54	141 00	376 50	2,657 04
West do.	641,918 00	2,182 65	167 50	431 70	2,781 85
Unincor. N. Liberties	626,494 00	2,129 87	85 00	136 00	2,350 87
	1,897,726 00	6,452 06	393 50	944 20	7,789 76
Totals,	37,280,481 00	126,755 84	1,995 00	9,997 00	138,747 84

Mr. Yarnall, presented the following report:—

The committee on markets to whom was referred a resolution of Select Council, directing them to report upon the expediency of constructing the eastern end of the market house, west of Broad street, with suitable accommodation for the western watch, and for the apparatus of two fire companies:—Report.

That in their opinion such addition to the proposed market house would be highly expedient. The house now occupied by the western watch is private property, constructed for an entirely different purpose, for which the city pays an annual rent of six hundred dollars. If a single story were added to one end of the new market house arranged for this especial purpose, the expense would not be great, the accommodations would be better and the annual saving in rent would form an important item in the revenue of the market house.

The committee, therefore, respectfully recommend the adoption of the resolution from Select Council, as follows:—

Resolved, That the committee on markets be authorized to construct the eastern end of the market house, west of Broad street, with suitable accommodations for the western watch, and for the apparatus of two fire companies.

#### MILTON, July 12.

**THE WEATHER.**—On Monday last at 3 o'clock in the afternoon, the Thermometer stood at 90 in the shade in this place—the warmest day till then we have had this summer. On Tuesday at the same hour it stood at 94, and on Wednesday at 92; on Thursday at 12 o'clock, in consequence of a shower of rain which cooled the air, the thermometer fell to 70.—*Miltonian*.

**THE NEW MILL ON LIMESTONE RUN.**—We have heard so much of late, of the mill erected on Limestone Run by our old friend Henry Follmer, that we have been curious enough to go and see for ourselves. We were most kindly received, and most generously treated; besides an abundance of choice Liquor manufactured upon Mr. Follmer's premises, equal at least, if not superior, to the champagne sold in our most fashionable Hotels. But of the mill: In September last, the first axe was put into the timber for its construction; and yet the mill was ready for business by the first of March. It has been constructed on a new but very simple principle by a very ingenious mill-wright, named *Samuel Kyles*, aged about 22 years. Within a head of only 10 feet, a wheel 7 high and 8 wide, she is capable of doing the same quantity of work that one of 20 feet head on the old principle can do. At present there are only two pair of stones erected and in use, but a third pair is designed. Mr. Follmer has his mill so constructed as to be capable of chopping corn on the cob, and grinding plaster, without any inconvenience to the miller. The neighborhood will derive many and great advantages from this improvement. May the enterprising proprietor live long to enjoy the fruits of his industry.—*Id.*

**ENTERPRISE.**—A young man by the name of Richard Jones, an apprentice of Mr. Howe of this village, has recently constructed a steamboat, complete with all the machinery, requisite. It is five feet long, and elegantly formed. We are informed that he has made several trials of its speed, and the result has been highly gratifying. He designs to launch it on the canal on the 4th, for the purpose of giving our citizens an opportunity to witness its operations. We think the young man should be encouraged. He certainly exhibits a remarkable genius in the mechanic art—he never saw a steamboat but once, when he was a small lad. He may yet arrive at the eminence of Fulton who first taught the vessel to speed her onward course unmindful of wind or wave.—*Susquehanna Democrat*,

#### SEMI-ANNUAL DIVIDENDS.

Bank of the United States	3½ per cent.
Bank of North America	3
American Insurance Company	5
Marine Insurance Company	5
Atlantic Insurance Company	4
Pennsylvania Life Insurance Company	3
Lehigh Coal Company	3
Schuylkill Permanent Bridge	4
Fire Insurance Company of the County of Philadelphia	3
Cumberland (N. J.) Bank	3
Wyoming Bank	4
Delaware Coal Company	6
North America Coal Company	4
Bank of Pennsylvania	3½
Union Insurance Company 6 dollars per share.	
Trenton Bank (Trenton) \$1,20 per share.	
Philad. and Lancaster Turnpike road	1 29-100
	\$6 00 pr. c.

By the last *Downington "Spectator,"* we became acquainted with a novel method of celebrating the Fourth of July which was practised by a laborer on the Railway at Coatesville. A certain Abner Sterne, emulating the fame of the renowned Sam Patch, took an aerial flight from the top of the Bridge at that place down into the waters of the Brandywine creek over which it is constructed. His descent was moderated by a parachute, and although he evinced some natural fears just before the leap, yet he "screwed his courage to the sticking-place" and came off scathless from the adventure, after having "cooled his copper" in the stream whose bosom received him. This feat was something rather uncommon, the bridge from which Sterne started being the loftiest on the rail road having piers seventy feet high and travellers passing over the roof, which is formed after the fashion of the deck of a ship, instead of through the middle of the wood-work.

#### THE REGISTER.

PHILADELPHIA, JULY 19, 1834.

Having lately passed some days at Bustleton, we would invite the attention of families who are desirous of spending a few weeks out of the city, to that place as offering many inducements. It is distant from the city 11 miles. By means of stages, there is a communication with it three times daily.

It is a pleasant village—stands on high ground—is furnished with pure air and excellent water, and is sufficiently rural and retired. There are three stores, two or three public houses, three places of public worship within walking distance, and an excellent boarding school for boys. Both of the public houses are said to be excellent. That of Mr. Hart, where we stopped, we can recommend from personal experience, as a very comfortable house in every respect. It is a large three storied brick building, situated in a retired part of the town, and although a public house, is as quiet and orderly as any family can desire, and the accommodations good. We think we are doing a service to families who wish to withdraw from the city, but who are, as we ourselves were, at a loss to find a suitable place, in recommending this pleasant village to their attention.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 4.      PHILADELPHIA, JULY 26, 1834.      NO. 342.

## HOUSE OF REFUGE.

APPENDIX TO REPORT FROM VOL. XIII. page 385.

### *Report of the Superintendent.*

To the Board of Managers of the House of Refuge, the following report is respectfully submitted.

Number of subjects remaining in the House of Refuge on the first of May, 1833.

Boys,	109
Girls,	55

—  
164

Admitted from May 1st, 1833, to May 1st, 1834.

Boys,*	68
Girls,	23

—  
91

Those received during the year, were born in the following states and countries, viz:—

	Boys.	Girls.
Pennsylvania,	36	11
New Jersey,	2	1
Maryland,	2	1
Greece,	0	1
Scotland,	1	1
Ireland,	1	1
North Carolina,	1	0
Vermont,	1	0
England,	2	0
West Indies,	1	0
Delaware,	1	0
New York,	2	0

The remainder uncertain.

Received from Huntingdon county,	1
Bradford county,	1
Cumberland county	1

The remainder from Philadelphia county.

Discharged from May 1st, 1833, to May 1st, 1834.

	Boys.	Girls.
By indenture,	63	13
Of age,	0	5
Improper subjects,	0	2
Returned to friends,	10	3
Sent to Almshouse,	0	1
Died,	1	0
	—	—
	74	24

The boys have been indentured as follows—

Farmers,	14	Blacksmiths,	6
Seamen, (Whaling voyages)	26	Taylor,	1
Brickmaker,	1	Chairmaker,	1
Woolen manufacturers,	3	Cotton spinner,	1
Cabinet makers,	3	Combmakers,	2
Tanner and Currier,	1	Oak Cooper,	1
Boot and Shoemakers,	2	Storekeeper,	1

\* One boy had been indentured, and was recommit-  
ted—two boys and one girl had been returned to their  
friends, and were recommit-—one boy had been dis-  
charged as an improper subject, and was recommit-  
ed—nine boys and three girls had been indentured, and  
were returned to the Refuge—and four boys left their  
masters and returned voluntarily.

Girls to Housewifery, 13  
Of those indentured during the year,

	Boys.	Girls.
Favorable accounts have been received from	32	7
Unfavorable	5	3
Not heard from	19	2
Returned to the Refuge,	5	1
do do voluntarily	2	0
	—	—
	63	13

The report published last year, from the opening of the institution to May 1st, 1833, was as follows:

	Boys.	Girls.
Favorable accounts have been received of	106	12
Unfavorable,	1	2
No certain information, (but believed to be doing well,) from Left their places, and since in prison,	16	3
	2	0
Served his time faithfully, and since in prison,	1	0
Served their time faithfully, and have since conducted improperly,	1	1
Served her time faithfully, and since married respectably, and doing well,	0	1
Served their time faithfully, and now doing well,	0	7
Left their places by persuasion of their connections, one of which is believed to be doing well,	2	0
Left their places and took money from their masters,	3	0
Guilty of stealing and absconding,	2	0
Left a whaling ship, and enlisted on board a U. S. armed ship,	1	0
Indentured without the usual reference to reformation, for particular reasons,	2	0
Left their places, and nothing now known of them,	20	4
Left her place, and since dead,	0	1
and now doing well,	0	1
and not doing well,	0	1
	—	—
	157	33

The boys are employed in the manufacture of brass nails, umbrella furniture, cane chair bottoms, bonnet reeds, boots and shoes, and at binding books. The girls do the tailoring, sewing, mending, washing, cooking, &c.

### *Work done by Boys.*

Brass nails made,	22,966,000
Bonnet reeds, (gross)	7,500
Cane chair bottoms,	625
Fine boots made, (pairs,)	14
Coarse do.	8
Boots footed,	15
Monroes, fine,	6
Shoes, do.	20

Do. women's,	26
Do. children's	35
Coarse brogans,	140
Do. Shoes,	586
Water boots fitted,	1188
Brogans, do.	1198
Fine boots, do.	55
Spelling books bound,	79048
do. sewed,	500
School Bibles sewed,	500
Do. folded,	100
Testaments bound,	53

*An account of Work done by the Girls in the House of Refuge.*

Shirts made,	255
Pantaloon,	255
Roundabout jackets,	269
Boy's stocks,	144
Boy's aprons,	74
Suspenders, (pairs,)	89
Frocks,	157
Other articles of Girl's clothing,	350
Handkerchiefs hemmed,	93
Stockings knit,	30
Shoes bound,	143
Sheets,	90
Pillow cases,	82
Bed ticks,	6
Brown towels,	41
Window curtains, (pairs)	14
Cart Cover,	1
Bed quilts,	16
Carpet rags cut and sewed, (lbs.)	473

The washing, ironing, mending, cooking, &c. for the whole establishment, form no small part of the employment of the girls.

All which is respectfully submitted.

EDWIN YOUNG.

Superintendent,

Philadelphia, May 1, 1834.

*Report of the Teacher.*

The Male School consists of 102 pupils, who are classed as follows:—

CLASS.	NO. OF BOYS.	STUDIES.
1	15	Study Arithmetic and Olney's Geography. Read in the Universal Class Book, and use Primary Dictionary.
2	7	Arithmetic, Cumming's Geography, read in History of the United States, and use Primary Dictionary.
3	13	The same as second class.
4	11	Read in Testament, and spell in Webster's spelling book.
5	12	do do do
6	12	do do do
7	8	Read and spell in Webster's spelling book.
8	8	do do do
9	9	do do do
10	7	Spell in one and two syllables.

102

Thirty-three write on paper, and sixty-two on slates. Six are cyphering in the simple rules, three in simple proportion, five in fractions, one in fellowship, one in progression, two in practice, thirteen in the compound rules, and one has been through Pike's arithmetic.

In the Female School there are fifty-one girls, who are classed as follows:—

CLASS.	NO. OF GIRLS.	STUDIES.
1	8	Arithmetic, Woodbridge's Geography, read in National Reader, and use Primary Dictionary.
2	9	Arithmetic, read in Morray's Introduction, and use the Primary Dictionary.
3	9	Read in Testament, and use Webster's spelling book.
4	7	do do do
5	8	Read in Colburn's First Lessons, and use Webster's spelling book.
6	6	Spell in two and three syllables.
7	4	Alphabet and one syllable.

51

Seventeen write on paper, and twenty-four on slates. Sixteen cypher in the simple rules.

Having had charge of these Schools not quite two months, I am unable to state the progress that each pupil has made, but with many of them there appears to be a desire of improvement; and I hope, by care and attention on my part, and application on the part of those under my charge, to justify the confidence reposed in me, and impart that instruction to them which will be of use to them in after life.

Z. B. NICHOLS, Teacher.

May 1st, 1834.

**LUSUS NATURÆ.**—An infant, or pair of twins were born in this borough on Saturday last, having two heads, four arms and four legs—they were joined at the breast, and from examination had but one heart. The mother of this singularly formed child, came to this borough from Manayunk, on the 4th of July, to pay a visit to a relative, and perhaps with a view to the accouchment. The child was dead, and we understand has been taken to Philadelphia, for the examination of scientific gentlemen there.—*Norristown Herald.*

**EXTRAORDINARY GROWTH.**—One hundred and ten stalks of rye were brought to our office this week, which according to the judgment of all who have examined them, all grew from one grain of rye. They were of the usual height and the heads were filled with rye. They grew upon the farm of Capt. Philip Wooding in Williams township, in this county. If this is any evidence of a plentiful harvest, the farmers will certainly have one.—*Easton Cent.*

**STATE LOAN.**—The State Loan of \$1,665,400 being the balance of the loan for internal improvement purposes, authorized by the act of the 5th April, 1834, was taken on Wednesday last, by Elihu Chauncey, Esq. for the Bank of Pennsylvania, at a premium of five dollars and three cents, i. e. he agreeing to pay \$105 03 in money for every \$100 of stock. Another bid was received for the whole sum, from a highly responsible source, of \$105 02 money, for every \$100 of stock.—*Harrisburg Reporter.*

**CITY LOAN.**—We understand that the City Loan for 100,000 dollars, redeemable in 1866, bearing 5 per cent. interest, was taken on Wednesday morning, as follows:—

3,100 dollars	8 per cent. premium.
34,900 do.	7½ do. do.
6,000 do.	7 do. do.
60,000 do.	\$105 06

Thirty thousand nine hundred dollars, bearing interest 7½ per cent. was taken by the Commissioners of Sinking Fund, and sixty thousand dollars was taken by R. & I. Phillips, of this city. There were numerous offers at low rates.—*Saturday Even. Post, July 19.*

## OBSERVATIONS MADE BY ALFRED CREIGH,

of Carlisle:—Commencing on the 1st February 1833, and  
ending the 31st day of December, 1834:—

(Continued from page 35.)

## JUNE.

Days of the month.	9 o'clock.	12 o'clock.	3 o'clock.	Prevailing Wind.	Remarks.
1	63°	64	65	SE	Cloudy
2	66	69	70	S	"
3	68	70	71	E	Rain
4	67	69	69	SE	Cloudy
5	71	73	74	S	Clear
6	63	65	65	ESE	Rain
7	61	62	62	"	"
8	63	65	67	SW	Cloudy
9	62	64	68	NW	Clear
10	61	70	72	W	"
11	63	68	70	NW	"
12	68	72	78	W	"
13	72	78	80	WSW	" & cloud.
14	72	82	76	W	"
15	71	78	81	W	"
16	71	76	78	"	"
17	68	72	74	"	"
18	69	71	75	"	"
19	62	65	65	ESE	Rain
20	62	72	74	"	"
21	71	71	74	SE	" & cloud.
22	72	74	78	N	"
23	71	76	79	N	"
24	71	70	69	N	Cloudy
25	64	66	70	W	Clear
26	65	67	74	S	"
27	66	71	73	ESE	Rain
28	65	69	68	W	Clear
29	67	70	71	W	"
30	68	76	81	W	"

## JULY.

1	77°	82°	86°	W	Clear
2	78	84	88	"	"
3	64	68	70	N	Rain
4	68	72	75	W	Clear
5	69	71	75	W	"
6	69	77	79	W	"
7	78	85	89	W	"
8	80	84	86	SSW	Rain
9	73	77	81	"	Cloudy & ra.
10	70	72	76	W	Clear
11	72	80	84	S	"
12	74	81	83	W	"
13	76	85	88	W	"
14	80	80	86	SW	Rain
15	72	76	76	W	Clear
16	74	77	79	"	"
17	72	76	79	"	"
18	70	74	76	N	Cloudy
19	68	70	74	N	"
20	80	84	88	W	Clear
21	79	86	88	N	"
22	84	90	92	"	"
23	80	85	88	NW	" & hi. wi.
24	84	92	96	NE	Rain
25	78	80	80	W	Clear
26	72	76	78	W	"
27	76	78	88	N	"
28	78	82	87	N	Cloudy & cl.
29	68	76	83	W	Clear
30	72	82	86	NW	"
31	70	74	78	"	Rain

## AUGUST

Days of the month.	9 o'clock.	12 o'clock.	3 o'clock.	Prevailing Wind.	Remarks.
1	72°	76°	79°	W	Clear
2	76	82	85	"	"
3	75	80	85	"	"
4	78	82	84	NE	Rain
5	74	78	82	"	"
6	72	76	78	E	"
7	76	84	86	W	Clear
8	73	76	80	W	"
9	72	73	79	"	"
10	68	70	74	"	"
11	70	73	75	"	"
12	68	71	72	E	Rain
13	78	82	85	W	Clear
14	77	79	83	"	"
15	79	84	86	"	"
16	72	74	71	E	Rain and Hail
17	74	77	80	SE	"
18	72	75	76	NE	"
19	71	75	79	N	Clear
20	68	70	77	S	"
21	72	75	78	NW	"
22	70	73	79	NE	"
23	70	72	77	SE	Rain
24	71	74	75	N	Clear
25	68	78	82	W	"
26	70	82	88	SW	"
27	74	85	90	SW	"
28	69	70	73	N	" and Cloudy
29	66	69	74	NW	Clear
30	58	62	69	W	"
31	60	63	70	W	"

## SEPTEMBER

Days of the month.	9 o'clock.	12 o'clock.	3 o'clock.	Prevailing Wind.	Remarks.
1	72°	75°	80°	NW W	Clear
2	68	76	78	NW	"
3	62	64	64	SE	Cloudy and Rain
4	72	77	81	W	Clear
5	71	76	83	W	"
6	73	76	78	W	"
7	65	66	68	ESE	Rain
8	60	61	58	E	Rain Cloudy
9	64	65	67	ESE	Cloudy and damp
10	70	72	70	W	Clear
11	67	69	71	W	"
12	62	65	67	W	"
13	60	64	64	N	"
14	62	65	69	W	"
15	58	70	71	S	"
16	64	68	70	NE	"
17	65	70	76	SE	Rain
18	66	71	77	S	" and Cloudy
19	72	82	85	W	Clear
20	78	83	87	SW	Rain
21	67	68	70	"	"
22	67	69	73	N	Clear
23	63	67	69	N	"
24	62	67	71	N	"
25	63	69	76	W	"
26	70	76	80	N	"
27	78	82	86	WSW	"
28	72	76	80	E	Rain
29	70	74	77	E	"
30	70	73	76	W	Clear

(To be concluded.)

## LAND TITLES.

(Continued from page 24 )

To give efficacy to an improvement against a written title, under the law of 3d of April, 1792. The improvement must appear clearly to subsist as such before the commencement of the written title.

Thus, in the Lessee of James Hepburn v. William Hutchinson, Northumberland, October, 1798, before Yeates and Smith, Justices, (MSS. Reports,) in ejectment for 202 acres of land, on Delaware run, in Turbutt township. The case was:

The plaintiff claimed under an application dated 20th of March, 1792, founded on a certificate of two justices of the peace, that the lands were unimproved; a consequent warrant of the 11th of April following, and a survey of 202 acres on the 28th of the same month, and patent dated 14th of May, 1792.

The defendant rested on a supposed prior improvement. He began to cut logs on the ground on the 9th of April, 1792, two days anterior to the date of the plaintiff's warrant.

The court was clearly of opinion, that this case was not within the provision contained in the fifth section of the act of 3d of April 1792, "That deputy surveyors shall not by virtue of any warrant, survey any tract of land that may have been actually settled and improved, prior to the date of entry of such warrant with such deputy, except for the owner of such settlement and improvement." A settlement is defined by the third section of the act of December, 1786. To make an improvement efficacious, it must subsist clearly as such before the commencement of an adverse written title. If the defendant's doctrine should be sustained, there could be no possible security for any paper title, where the lands contemplated to be surveyed, lie at a distance from the seat of government. Verdict for plaintiff.

The service of a declaration in ejectment, within the six months, although the suit was not entered on the docket, until six days after the expiration of the six months, was held to be sufficient to save the limitation of the 11th section of the act of 3d of April, 1792.—*Nicholson's lessee, v. Wallis*, 4 Dallas, 154.

*Lessee of Samuel Ewalt v. Martha Highlands.*

The plaintiff claimed 400 acres of land, across the Allegheny, at Girty's run, under a settlement and survey.

It appeared in evidence that the lessor of the plaintiff with two hands, on the 30th of April, 1792, crossed the Allegheny to make an improvement. They deadened about an acre of timber; returned, and in about two weeks more, deadened some little more. He erected a cabin with a clap-board roof, 8 feet to the square, and cut out logs for a door, and planted a few peach stones, apple seeds and potatoes, but made no other improvements, nor ever resided himself, nor had tenants on the land.

A survey made by Jonathan Leet under the settlement, on the 9th of April, 1794, was offered in evidence, but excepted to, as not being of sufficient authority to make a survey, under the act of 3d of April, 1792.

By the Court. Though the validity of the survey depends "on the actual settlement and improvement" of lands lying north and west of the rivers Ohio and Allegheny, and Conewango creek, yet the deputy surveyor must necessarily judge thereof in the first instance, a court and jury must afterwards judge of the settlement, and his consequent authority. His act is not conclusive evidence hereof. Let the survey be read.

On the 10th of February, 1796, Ewalt leased to one Peter Smith, who came over the river, kindled a fire in the cabin, staid there an hour, and then removed. His landlord lived on the east side of river with his

family. The defendant and her family resided on the lands in question above three years.

A motion was made for a nonsuit.

By the Court. What a deputy surveyor of a district does, must be always under the control of the court and jury, who are competent to determine on the validity of his acts. The second section of the law offers these lands for sale to persons "Who will cultivate, improve and settle them, or cause the same to be cultivated, improved and settled;" but the legislature have not ascertained in the 8th section, how far "An actual settlement and improvement" must have progressed to warrant a survey, as they have laid down no general rule or criterion on the subject, neither will this court attempt it; yet we are bound to say, that a personal residence must in the nature of things accompany an actual settlement, unless impending, imminent danger exists, which would prevent a man of reasonable firmness of mind from continuing on the land.

The *animus residendi* must be fully evinced. Negatively, we may safely say, that what has been mentioned at the bar, deadening one or two acres of timber, planting a few peach stones, apple seeds, potatoes, or grains of corn, or the doing of other such acts, though a small cabin is also put up, will not, merely of themselves, constitute a settlement, where the party actually lives at a distance, and has no tenant occupying the ground. Neither will a man's setting his foot or heart on a tract of land, and claiming it as his own, give such a preference as the law contemplates. Fancied rules of honor cannot determine the question. A settlement must depend on the peculiar circumstances of every case, which may be greatly varied. We cannot, however, pronounce, that the plaintiff's proofs came up to our idea of an actual settlement which would authorize a survey. The plaintiff took a nonsuit immediately. *Allegheny, May, 1799.* (MSS. Reports.) S. C. 4 Dallas, 161.

The lessee of Neal M'Glaughlin v. Nicholas Dawson, is reported in 4 Dallas, 221. But not sufficiently full to give an extended view of the principles adopted and established under this act.

Both parties claimed the land by virtue of actual settlement. The plaintiff, on the 4th of April, 1792, crossed the Ohio, grubbed a small piece of ground near to a cabin which had been erected and covered in by one Link, in 1790; cleared a spot about 40 feet square, made 10 or 15 rails, which he put up, and planted a few seeds of corn. On the 11th of the same month, he is found living and sleeping in the cabin, and in the two following months, occupied in digging his small patch, planting potatoes, and sowing garden seeds. He made a chimney; and though notified of danger from the Indians, staid one night longer. In August he made a door to the cabin. In October he carried out with him provisions, &c and a straw mat to sleep upon; a mattock and an axe, and occupied himself in making rails. Only he and Charles Phillips, were known to have resided on the northwest side of the Ohio, with the intention of making settlements, in the year 1792. In 1793, he made several hundred rails, continued to grub, made a small piece of meadow, and lived in the cabin, with his bedding and small household utensils about him. On the 16th of May, 1793, he obtained a warrant, descriptive of the lands, and procured a survey of 400 acres and 68 perches on the 11th of December following, and paid the surveying fees. In 1794, he burnt the logs and cleared the ground, and with his oxen, put in four or five acres of Indian corn, attended it during the season, and raised a crop of near 60 bushels. In 1795, he lived in his cabin, and had his cattle on the land; he raised turnips, and hauled them home. In 1796, he continued his settlement, and added an acre to his former field; and in 1797, he cleared eight or ten acres of land more, and constantly lived on the ground, except when the immediate approach of dan-

ger from the savages induced him to remove occasionally therefrom.

The first commencement of the defendant's improvement, was one day earlier than the opposing claim. On the 3d of April, 1792, he crossed the river, in company with two others, in search of lands. On that day he planted 10 or 15 hills of Indian corn, deadened seven or eight trees, and marked the initial letters of his name, with gun powder, on Link's cabin. In the two following months he planted four hundred hills more of Indian corn, and hoed them occasionally. In September he grubbed two acres, rolled the logs, burnt them and the brush, and cleared the ground. In October he took out a plough and horses, ploughed the ground he had cleared, sowed two bushels of rye, and built a good block house, about 12 feet square, but did not cover it in. During this year he lived with his brother Benoni Dawson, at the mouth of Mill creek, about four miles distance from the lands in dispute. In February and March, 1793, he made clap boards, covered his block house, made a door, and slept one or two nights therein. He cleared four acres more land, and mowed rails for six acres. In the following month he inclosed a field of seven acres with a fence, planted it with Indian corn, and afterwards attended it from time to time. He and one George Clark were seen together in the block house; and one Daniel Swearingen demanded of the district surveyor's assistant to make a survey in consequence of the defendant's settlement, which was refused on the ground of the plaintiff's earlier application for a survey to him. In due season he pulled his corn, and lodged it in the loft of his block house. During 1793, defendant was engaged as a six month's man, at Philips's station. In 1794, he was seen ploughing, and he disposed of his former crop of corn. He put in more corn which was seen growing during this year; and he was also engaged during this year, as a volunteer on the frontiers. In 1795, he put in two and a half acres of Indian corn. He cropped with his brother Thomas at the distance of five miles from these lands, and lived with his father occasionally. In February, he married, and removed with his wife into the block house, where they have resided since. He had eight or ten acres cleared, under good fence; and in 1797, he grubbed and cleared three acres additional, near the block house.

In 1792, the parties, respectively, warned each other against continuing their improvements. The plaintiff's warrant was not entered in the office of the deputy surveyor of the district, until the 23d of August, 1793.

By the Court. The question is, which of these claims ought to prevail, and is naturally subdivided into two points.

1st. Whether the pretensions of the plaintiff as an actual settler, are preferable in law to the defendant's previous to the 23d of August, 1793, when his warrant was entered with the deputy surveyor? 2d. Whether since that period he is not vested with additional equity?

The act of Assembly of 3d of April, 1792, certainly had in view the population of the back country, and the forming a barrier on the frontier lands, north and west of the rivers Ohio and Allegheny, and Conewango creek, by placing numerous families thereon. Whether the titles are derived originally from labour bestowed on the ground, or disbursement of cash, no warrant, or survey shall, by the 9th section, vest any title to such lands, "Unless the grantee has made, or shall within two years thereafter, make, or cause to be made, an actual settlement thereon, by clearing, fencing and cultivating at least two acres for every hundred acres contained in one survey, erecting thereon a messuage for the habitation of man, and residing, or causing a family to reside thereon, for the space of five years next following his settling the same, &c."

Link's cabin being erected before the passing the law, empowering the sale of these lands, gives no equi-

ty either to him, or plaintiff; nor can the planting of a dozen hills of corn, deadening seven or eight trees, or marking the defendant's name on the cabin, confer any right.

The improvements and cultivation of the plaintiff, will be found, on an accurate review of the evidence, to be inferior in extent to those of the defendant, in each distinct year, except 1797. The one depended on his own exertions, and was poor; the other could call to his assistance the services of his friends and connections, and commanded money. But the former possessed one strong, prominent feature of an actual settler, a constant, personal residence on the ground, unless when intimidated by the impending danger of a savage foe, encompassed by his small stock of provisions and bedding, and his few family utensils, and implements of husbandry; while the latter was engaged as a volunteer in the public service, or lived with his father or brothers. In correct language, it is physically impossible, that a man should have two homes at the same time. It may as well be said, that a body may be in different places at the same instant, acts are the most unequivocal proofs of the bent of the mind. Here M'Glaughlin's intention to reside on the lands in dispute, is completely demonstrated by personal residence, and a permanent adherence to the soil. The intent is executed in fact.

In *Ewalt's lessee, v. Highlands*, we delivered our explicit opinion, on due consideration, that "a personal residence must, in the nature of things, accompany an actual settlement, unless impending imminent danger exists, which would prevent a man of reasonable firmness of mind from continuing on the land;" and we are now more firmly impressed with the correctness of these sentiments. But it has been asserted at the bar, that this construction would throw actual settlers in a worse situation than warrant holders, under the proviso contained in the close of the 9th section of the act of April, 1792. This we deny. That proviso only respects the progress of the improvement, in clearing two acres for every 100 acres in each survey, erecting a messuage thereon, and residing thereon for five years. It does not relate to the commencement, or origin of the title. In the reason of the thing, the rights of actual settlers must depend on the priority of their settlements; and a settlement necessarily involves in itself a personal residence of the party on the ground. And such is the legal idea of an improvement, as depending on the act of 30th of December, 1786.

The light in which we have viewed the first point, renders it unnecessary to go into the second in the present case. The court conceiving that the plaintiff is the first actual resident settler on the lands in question, according to the true meaning of the legislature, and entitled in that character to recover the possession of the lands, will only add, that to his former right he has added the legal right of a warrant. Verdict for the plaintiff. *Allegheny*, October, 1800. (MSS. Reports.)

The lessee of *James Scott v. William Anderson*, was settled on the same principles, the same day.

The case of the lessee of *Robert Morris v. William Neighman*, *Allegheny*, May, 1799, before Yeates and Smith, Justices, is briefly stated in 4 *Dallas*, 209. But as this controversy greatly agitates the country, and has hitherto much engrossed the attention of the legislature, it is deemed of importance to give the different decisions pretty much in detail; a full statement of facts is also necessary to a competent understanding of each particular case. Same plaintiff v. *Adam Scheiner*. (MSS. Reports.)

The plaintiff claimed the lands in question, on the waters of Big Conewanessing creek, under two warrants dated 4th of March, 1793, and surveys made thereon, 12th and 19th of November, 1794.

It appeared, that when the surveys were made, with many others, for the plaintiff, there had been erected on all the tracts, seven small cabins by persons who

intended thereby to hold the lands; and the agent of the plaintiff, to preclude dispute, had bought from the different claimants for 110 dollars. On the 25th of July, 1796, the agent took out a mill wright, to build a mill on the lands then occupied by Neighman, and demanded the possession thereof. The latter permitted him to level the water, but would not suffer him to do other work, as he insisted the plaintiff's warrants were dead, for defect of settlements within the two years. At this time Neighman had a small cabin, and about one acre of timber deadened, but had no family on the ground. On the 1st of March, 1797, the defendant settled with his family on the land, and before the bringing of the ejectment, had built a large cabin, 16 feet by 18, and a barn, cleared 10 acres of land, and had begun to make the dam and forebay of his mill, which he afterwards completed.

Sheiner, the other defendant, came with his family on the other tract of land, on the 8th of April, 1797, under Neighman, who was bound to make him a good title to one moiety thereof. Just as he was beginning to work, one Jacob Rudolph, a tenant who had accepted a lease under Morris, warned him off, but he refused going, and would not permit Rudolph to take possession.

It further appeared, that in 1793, and 1794, no settlements were made across the Ohio and Allegheny. — Early in March, 1795, a few individuals removed without their families, to the vicinity of Fort Franklin, Cussewago, and Craig's Station, but none settled at a distance, or detached from the garrisons. Some of the white people, in the spring of 1795, fired on the Indians; this incited them to make reprisals, and they accordingly, in the same spring, killed two persons near Cussewago, on French creek. It was totally unsafe to remove families into the interior of the country until 1796, when settlements in general took place.

Two questions were made. 1st. Whether the plaintiff forfeited his right under the warrants, by not making his settlements on the lands within the two years? — 2d. Whether, if a forfeiture was incurred, the defendants might not enter, and, the condition being broken, take advantage thereof?

By the Court. These causes are said to involve extensive interests, and the magnitude of the case demands peculiar attention. The solution of the questions which have been agitated, depends more immediately on the 9th section of act of 3d of April, 1792.

The act appears to be the result of a spirit of compromise between the advocates of actual settlements, and warrant rights. The only distinction between them is made in the 5th section, which declares that "Lands actually settled and improved prior to the date of the entry of a warrant with the deputy surveyor of a district, shall not by virtue of such warrant be surveyed except for the owner of such settlement or improvement." This is confessedly a great preference; for if the particular lands were actually vacant and unimproved, when the warrant issued, a subsequent settlement and improvement made the day before its entry with the deputy surveyor, shall postpone the warrant right.

The 9th section prescribes the terms on which warrants and surveys shall vest a title to lands lying north and west of the rivers Ohio and Allegheny, and Coneywango creek. "The grantee shall within two years, &c. But it is provided in a subsequent clause, that "If any such actual settler, or grantee in any warrant, shall by force of arms of the enemies of the United States, be prevented from making such actual settlement, or be driven therefrom, and shall persist in his endeavours to make such actual settlement as aforesaid, then, in either case, he and his heirs shall be entitled to have and hold the said lands, in the same manner as if the actual settlement had been made and continued."

It is a matter of public notoriety, that a war subsisted between the citizens of the United States, and the west-

ern Indians from 1790 to 1796. The expedition of General Harmer into the Indian territories took place in 1790, which was succeeded by that of General St. Clair, who was defeated on the 4th of November, 1791. These are facts which cannot be forgotten by the people on the frontiers. The sum of £4,000 was appropriated for the defence of the western frontiers of this commonwealth, "In imminent danger of being invaded by the Indian tribes, then at war with the United States," by an act passed 17th of March, 1791. The same language is spoken in the preamble of another act passed 20th of January, 1792; and the governor was thereby empowered to engage three companies of riflemen to protect and defend the western frontiers, and £4,500 were appropriated for that purpose. The same provisions were made by another act passed 3d of April, 1793, and \$14,000 allowed. These infantry companies were to be raised and stationed for the protection of the frontiers of Westmoreland, Washington, and Allegheny, by a law of 28th of Febyr'y, 1794, and 130 men were to be raised by another law passed 23d of September, 1794. These different public acts comport with the oral testimony given in the course of the trials. Until 1796, it was unsafe for families to cross the river, into the newly granted lands. In 1795, some few bold, adventurous persons settled in the spring near the garrisons; yet no families removed thither with women and children. Indictments for robbery uniformly charge that the party robbed was put in fear; and if the fact be attended with those circumstances of violence or terror, which in common experience are likely to induce a man to part with his property for the safety of his person; it will amount to a robbery; the law will presume fear, where there is a just ground for it. The same principle applies to the section of the law under consideration. For though the act certainly contemplated the settlement of the country within a period not remote, it provides for persons prevented from making such settlements "by force of arms of the United States." It cannot reasonably be taken to be the will of the community, that these settlements should be made under imminent, impending danger, at a distance from the garrisons, or where there was just ground to fear such danger. The war continued in fact until the treaty was concluded at Fort Grenville, on the 3d of August, 1795, between General Wayne and the Indian tribes; and peace with them could not be said to be established, until that treaty was ratified by the President and the Senate of the United States, on the 22d of December, 1795. Here then is a safe rule to go by, freed from all danger of introducing perjury. The *terminus a quo* settlements shall commence, may safely be dated from the constitutional ratification of the Grenville treaty with the Indian nations, and if after that period, actual settlers or grantees "shall persist in their endeavours" to make their settlements, they shall not incur a forfeiture of their lands. This we take to be the true meaning, or spirit of the law.

But granting, for argument sake, that forfeitures were incurred by reason of non settlement for two years after the date of the warrants; who shall enter for the condition broken? The words of the law in the 9th section are freed from all doubt and difficulty on this head. "In default of such actual settlement and residence, it shall and may be lawful to and for the commonwealth to issue new warrants to other actual settlers for the said lands, or any part thereof, reciting the original warrants, and that actual settlements and residence have not been made in pursuance thereof, and so, as often as defaults shall be made, for the time, and in the manner aforesaid, which new grants shall be under and subject to all and every the regulations contained in this act."

The new warrants, issued under proper circumstances, operate as inquests of office to divest the former estates granted; and no individual can take advantage of the breach of the condition, unless through the instrumentality of the state, by granting new warrants, in

a specified form. This method of procedure is obviously pointed out by the legislature, to avoid the mischiefs necessarily attendant on private persons assuming upon themselves to determine, when the estates of the persons settling, or obtaining warrants, should cease and become void: and least of all ought those persons to have advantage of forfeitures, if they really took place, who by their own acts and mere wills, prevented a compliance with the terms enjoined by the law, on the part of those who were desirous of settling and improving, and had fully paid for the lands. If the expressions of the law were not as particular as we find them, we should have no difficulty in pronouncing, that no persons should take advantage of their own wrong; and that it does lie in the mouths of men like the present defendants, to say "The warrants are dead, we will take and withhold the possession, and thereby entitle ourselves to reap benefits from an unlawful act." We are bound to say, that on both the questions which have been made, the plaintiff is entitled to verdicts.—The verdicts were, accordingly, for the plaintiff.

The point of *forfeiture* was also determined in the same manner in *Wilkins's Lessee, v. Allenton*, *Allegheny*, November, 1801, before the same judges, (*MSS. Reports*).

In the *lessee of Hazard v. Lowrey*, in the supreme court, 1 Binney, 166. The case was:—The plaintiff's warrant bore date the 13th of April, 1792, and called for 400 acres "Adjoining land this day granted to Walter Stewart." On the 17th of June, 1794, more than two years after the date of the warrant, a survey was made upon it by the deputy surveyor of the district, according to the description in the warrant, "Adjoining Walter Stewart," but no entry was made at that time by plaintiff, or by any one under him, with a view to settlement. The defendant entered on the land in July, 1795, and plaintiff brought his ejectment to September, 1797, more than a year and a day after General Wayne's treaty, but less than two years.

Three points were reserved on the trial. 1st. Whether as no survey was made upon the plaintiff's warrant, within two years next after the date, any survey thereon made afterwards, could vest a title in the warrantee. 2d. Whether any title vests in a warrantee under the act of 3d of April, 1792, unless he has made an actual settlement before the date of the warrant, or within two years next afterwards. 3d. Whether supposing the plaintiff to have been prevented during the two years after the date of his warrant, from making an actual settlement, he had proceeded to make it within a reasonable time after the prevention ceased.

Tilghman, C. J. delivered the opinion of the court. The first and second points may be considered under one view. They as well as the third point, arise out of the act of the 3d of April, 1792, and principally out of the 9th section that act.

Although this section is expressed with such obscurity as to have occasioned great diversity of opinion among men of the first abilities, yet there are some points concerning which there can be little doubt. One of these points is, that if the settlement required by law is prevented by force of arms of the enemies of the United States, the interest of the grantee does not revert to the commonwealth, although the settlement is not made within two years from the date of the warrant. Now, in the case before us, the warrant bears date the 13th of April, 1792, and it is notorious, and not denied by the defendant, that for more than two years from that time, there was open war with the Indians, which rendered it dangerous to attempt a settlement of the land in dispute. It may be safely affirmed, from the public acts of the commonwealth in granting money and raising troops for the protection of the country, that this state of danger existed until the pacification by General Wayne's treaty with the Indians. If the danger arising from this war excused the warrantee from making a settlement, so did it likewise excuse the de-

puty surveyor from surveying the land. The council for the defendant contends that in as much as the warrant does not describe the land, except as "Adjoining a tract granted to Walter Stewart," which had not been surveyed, the warrantee could not know where it lay, until it was surveyed, and of consequence he could not be prevented from settling what he had no right to enter on. But this argument has more of refinement than solidity. When the warrantee paid his money, and took out his warrant, his title commenced, he obtained a right to reduce the land to a certainty by survey, and he shall not be deprived of that right by the event of war. There is nothing in the act which authorizes such a position: On the contrary, the proviso in the 9th section, which excuses the settlement, does virtually excuse the survey.

The third point for our decision supposes the warrantee was prevented by the enemy from making a settlement for two years before the date of the warrant; but the defendant contends that a settlement was not made within a reasonable time after the prevention ceased. It was decided by my three brethren at a special court at Sunbury, that a reasonable time for such settlement should be allowed; and to that opinion I subscribe. The question then is, what is that reasonable time? The law has not fixed it. But as two years are allowed for building, clearing and fencing, in case the country had been in a state of peace; it seems most consonant to the spirit of the law, that where war existed from the date of the warrant for two succeeding years, not less than two years should be allowed from the pacification by the treaty by which the war was concluded. I understand this to have been the opinion of the judges of this court, and I see nothing which should induce us to depart from it. The defendant, then, having entered during the time the plaintiff had a right to hold the land, for the purpose of making a settlement, was a wrong-doer, and subject to be removed either by an entry or by ejectment. It follows that the plaintiff was entitled to judgment in the circuit court, and that judgment must now be affirmed.

This judgment fully confirms the doctrine of *Morris v. Neighman*, and the point is settled.

But another question of very great importance has arisen upon the proviso in the 9th section, which has divided the judges of the same court: and upon the construction of which, the judgments of different courts have been contrary. It is lamented by the editor, that the history of this interesting conflict, will swell this note to an unreasonable length; but as the work is professedly designed, (not for the bar, to whom the whole subject is familiar, but) for the information of the citizens of the commonwealth, who have not access to the books and authorities, the detail is considered indispensable.

The question is, whether the conditions of actual settlement, by reason of the Indian hostilities for two years after the date of a warrant for lands across the *Allegheny*, are extinguished, or dispensed with, by the proviso in the 9th section of the act of the 3d of April, 1792?

Under the idea that by the prevention of the enemies of the United States, the lands could not be settled within the two years, and that therefore the condition of settlement was extinguished; the Board of Property, in governor Mifflin's time, by the opinion of the then attorney general, had devised a form of certificate, which has been termed a prevention certificate, as follows: "We do hereby certify that A. B. (the warrantee, or settler,) hath been prevented from making a settlement on a tract of land, containing 400 acres, situate, &c. conformable to the proviso contained in the 9th section of the act, entitled "An act for the sale of vacant lands within this commonwealth," passed the 3d day of April, 1792, by force of arms of the enemies of the United States; and that he, the said A. B. hath persisted in his endeavors to make such settlement."

Upon this certificate, signed by two justices, being produced at the Land Office, a patent issued, notwithstanding the warrantee had neither improved, nor settled. The patent recited, that "A. B. has made it appear to the Board of Property, that he was, by force of arms of the enemies of the United States, prevented from making such settlement on the hereinafter described tract of land, as is required by the 9th section of an act of the general assembly of this commonwealth, passed the 3d day of April, 1792, entitled "An act for the sale of vacant lands within this commonwealth," within the time therein mentioned, and that he said A. B. had persisted in his endeavors to make such settlement, there is granted by the said commonwealth unto the said A. B. a certain tract of land, &c.

But a change having taken place in the Land Officers, a new construction was given to the proviso, attached to the 9th section of the act; it was insisted that no patent could issue, unless the terms of settlement and residence, were, at some period, completed, though the obligation to complete them, during the Indian war, was suspended, and the resolutions and proceedings of the former Board of Property, on the subject, were not deemed authoritative and conclusive upon the new board. At the same time a number of persons entered upon the lands of the warrantees, on the pretence that the forfeiture for non-settlement, was absolute, at the expiration of two years from the date of the warrants, and set up claims as actual settlers. When the company, known by the name of the Holland Land Company, who had received many patents under prevention certificates, applied, with similar certificates, for the rest of their patents, the secretary of the Land Office refused to issue them. The company therefore, by their council, moved in the supreme court, for a rule in the secretary of the Land Office, to show cause, why a mandamus should not be awarded commanding him to prepare and deliver patents to the company, for various tracts of land, &c.

The case was argued at March term, 1800, and is reported at great length, in 4 Dallas, 170, &c. under the name of "The commonwealth v. Tench Coxe, esquire."

The court differed in opinion, but the motion was overruled by the majority.

The opinion of Shippen, C. J. is as follows.

The legislature by the act of the 3d of April, 1792, meant to sell the remaining lands of the state, particularly those lying on the north and west of the rivers Ohio and Allegheny. The consideration was to be paid on issuing the warrants. They had, likewise, another object, namely, that if possible, the land should be settled by improvers. The latter terms, however, were not to be exacted from the grantees at all events. The act passed at a time when hostilities existed on the part of the Indian tribes. It was uncertain when they would cease. The legislature, therefore, contemplated, that warrants might be taken out during the existence of these hostilities, which might continue so long as to make it impossible for the warrantees to make the settlements required, for a length of time; not, perhaps, until after these hostilities should entirely cease. Yet, they make no provision, that the settlements should be made within a reasonable time after the peace; but expressly within two years after the date of the warrants. As, however, they wished to sell the lands, and were to receive the consideration money immediately, it would have been unreasonable, and probably, have defeated their views in selling, to require settlements to be made on each tract of 400 acres, houses to be built and lands to be cleared; in case such acts should be rendered impossible by the continuance of the Indian war. They therefore make the proviso, which is the subject of the present dispute, in the following words, "provided always, &c."

When were such actual settlements to be made? The same section of the act which contains the above proviso

gives a direct and unequivocal answer to this question, "within the space of two years next after the date of the warrant." If the settlements were not made within that time, owing to the force, or reasonable dread, of the enemies of the United States, and it was evident that the parties had used their best endeavors to effect the settlement; then, by the express words of the law, the residence of the improvers for five years afterwards, was expressly dispensed with; and their title to the lands was complete, and patents might issue accordingly. It is contended, that the words "persist in their endeavors" in the proviso, should be extended to mean, that if within the two years, they should be prevented by the Indian hostilities from making the settlement; yet when they should no longer be prevented by those hostilities, as by a treaty of peace, it was incumbent on them then to persist to make such settlement. The legislature might, if they had so pleased, have exacted those terms; (and they would not, perhaps, have been unreasonable) but they have not done so; they have expressly confined the time of making such settlements to the term of two years from the date of their warrant. Their meaning and intention can alone be sought for from the words they have used, in which, there seems to me, in this part of the act, to be no great ambiguity. If the contrary had been their meaning, they would not have made use of the word "endeavors," which supposes a possibility, at least, if not a probability, as things then stood, of those endeavors failing on account of the hostilities, and would, therefore, have expressly exacted actual settlements to be made, when the purchasers should no longer run any risk in making them.

The state having received the consideration money, and required a settlement within two years, if not prevented by enemies; and in that case dispensing with the condition of settlement and residence, and declaring that the title shall be then good, and as effectual, as if the settlement had been made and continued; I cannot conceive they could mean to exact that settlement at any future indefinite time. And, although it is said, they meant that condition to be indispensable, and that it must be complied with in a reasonable time; we have not left to us that latitude of construction, as the legislature have expressly limited the time themselves.

It is urged that the main view of the legislature was to get the country settled, and a barrier formed; this was undoubtedly one of their views, and for that purpose they have given extraordinary encouragement to individual settlers; but they had, likewise, evidently, another view, that of increasing the revenue of the state by the sale of the lands. The very title of the act, is "For the sale of the vacant lands within this commonwealth;" this latter object they have really effected, but not by the means of the voluntarily settlers; it could alone be effected by the purses of rich men, or large companies of men, who would not have been prevailed upon to lay out such sums of money as they have done, if they had thought their purchases were clogged with such impracticable conditions.

I have hitherto argued upon the presumption, that the words, "persist in their endeavors," relate to the grantees, as well as the settlers; but, in considering the words of the proviso, it may be well doubted, whether they relate to any other grantee, or settler than those who have been driven from their settlements. The word "persist" applies very properly to such. The words of the proviso are, "If such actual settlers, &c." Here, besides that the grammatical construction of referring the word "persist," to the last antecedent, is best answered; the sense of it is only applicable to settlements begun, and not to the condition of the grantees. There are two members of the sentence, one relates to the grantees, who it is supposed may be prevented from making their settlements; the other to the settlers, who are supposed to be driven away from the settlements. The latter words, as to them, are proper, as to the grantees, who never began a settlement, improper. The

act says, in either case, that is, if the grantees are prevented from making their settlements, or if the settlers are driven away, and persist in their endeavors to complete their settlements, in either case they shall be entitled to the land.

I will not say this construction is entirely free from doubt; if it was, there would be an end of the question.

But taking it for granted, as it has been done at the bar, that the words relate to the grantees, as well as to the settlers; yet although inaccurate, with regard to the former, it seems to me, the legislature could only mean to exact from the grantees, their best endeavors to make the settlements, within the space of two years from the date of their warrants; at the end of which time, if they have been prevented from complying with the terms of the law, by the actual force of the enemy, as they had actually paid for the land, they are then entitled to their patents. If the legislature really meant differently, all I can say is, that they have very unfortunately expressed their meaning.

Yeates, justice. I have long hoped and flattered myself, that the difficulties attendant on the present motion would have been brought before the justice and equity of the legislature for solution, and not come before the judicial authority, who are compelled to deliver the law as they find it written for decision. The question has often occurred to our minds, under the act of 3d of April, 1792, which has so frequently engaged our attention in our western circuits.

The Holland Company have paid to the state the consideration money of one thousand one hundred and sixty-two warrants, and the surveying fees, on one thousand and a forty-eight tracts of land; besides making very considerable expenditures by their exertions, honorable to themselves, and useful to the community, (as has been correctly stated,) in order to effect settlements. Computing the sums advanced, the lost tracts, by prior improvements and interferences, and the quantity of one hundred acres granted to each individual for making an actual settlement on their lands; it is said that averaging the whole, between two hundred and thirty, and two hundred and forty dollars, have been expended by the company, on each tract of land they now lay claim to.

The Indian war, which raged previously to, and at the time of the passing the law, and until the ratification of the treaty at Fort Grenville, must have thrown insurmountable bars in the way of those persons, who were desirous of sitting down immediately on lands, at any distance from the military posts. These obstacles must necessarily have continued for some time after the removal of impending danger, from imperious circumstances; the scattered state of the inhabitants, and the difficulty of early collecting supplies of provisions; besides, it is obvious, that settlements in most instances, could not be made, until the lands were designated, and appropriated by surveys, and more especially so, where warrants have express relations to others, depending on a leading warrant, which particularly locates some known spot of ground.

On the head of merit, in the Holland land company's sparing no expense to procure settlements, I believe there are few dissenting voices beyond the mountains; and one would be induced to conclude, that a majority of united, equitable, circumstances, would not fail to produce a proper degree of influence on the public will of the community. But we are compelled by the duties of our office, to give a judicial opinion, upon the abstract legal question, whether if a warrant holder, under the act of the 3d of April, 1792, has begun to make his actual settlement, and is prevented from completing the same, "by force of arms of the enemies of the United States, or is driven therefrom," and shall make new endeavors to complete the same, but fails in the accomplishment thereof, the condition of actual settlement and residence is dispensed with, and extinguished?

I am constrained, after giving the subject every consideration in my power, to declare, that I hold the negation of the proposition, for the following reasons, collected from the body of the act itself.

1st. The motives inducing the legislature to enact the law, are distinctly marked in the preamble, that "The prices fixed by law for other lands," (than those included in the Indian purchase of 1768,) are found to be so high, as to discourage actual settlers from purchasing and improving the same.

2d. The land lying north and west of the rivers Ohio and Allegheny, and Conewago creek, are offered for sale, to persons who will cultivate, improve and settle the same, or cause the same to be cultivated, improved and settled, at and for the price of 7l. 10s. for every hundred acres thereof." By sect. 2, the price of lands is thus lowered, to encourage actual settlements.

3d. By sect. 3, "Upon the application of any person who may have settled and improved, or is desirous to settle and improve, a plantation within the limits aforesaid; there shall be granted to him a warrant not exceeding 400 acres, &c.

The application granted, is not to take up lands; but it must be accompanied, either by a previous settlement and improvement, or expressions of a desire to settle and improve a plantation; and in this form all such warrants have issued.

4th. By sect. 5, "Lands actually settled and improved, prior to the date of the entry of a warrant, with the deputy-surveyor of the district, shall not be surveyed; except for the owner of such settlement and improvement."

This marked preference of actual settlers over warrant holders, who may have paid their money into the treasury for a particular tract; even, perhaps before any improvement of the land was meditated, shows, in a striking manner, the intention of the legislature.

5th. By sect. 8. The deputy surveyor of the district, shall, upon the application of any person, who has made an actual settlement and improvement on these lands, survey and mark out the lines of the tract of land, not exceeding 400 acres for such applicant."

The settlement and improvement alone are made equivalent to a warrant, which may be taken out by sect. 10, ten years after the time of passing this act.

6th. I found my opinion on what I take to be the true and legitimate construction of the 9th section; in the close of which is to be found the proviso, from whence spring all the doubts on the subject.

It has been said at the bar, that three different constructions have been put on this section.

1st. That if the warrant holder has been prevented by Indian hostilities, from making his settlement within two years, next after the date of his warrant, and until the 22d of December, 1795, (the time of ratification of General Wayne's treaty,) the condition of residence and settlement is extinct and gone.

2nd. That though such prevention did not wholly dispense with the condition, it hindered its running within that period; and that the grantee's persisting in his endeavors, to make an actual settlement and residence for five years, or within a reasonable time thereafter, shall be deemed a full compliance with the condition.

3rd. That in all events, except the death of the party, the settlement and residence, shall precede the vesting of the complete and absolute estate.

Though such great disagreement has obtained, as to the true meaning of this 9th section, both sides agree in this, that it is worded very inaccurately, inartificially and obscurely. Thus it will be found towards the beginning of the clause, that the words "Actual settlement," are used in an extensive sense, as inclusive of residence for five years: because its constituent parts are enumerated and described, to be by "Clearing, fencing and cultivating at least two acres for every hundred acres, contained in one survey; erecting thereon,

a message for the habitation of man, and residing, or causing a family to reside thereon, for the space of five years, next following the first settling of the same, if he or she shall so long live. "In the middle of the clause the same words are used in a more limited sense, and are coupled with the expression "and residence," and in the close of the section, in the proviso, the same words as I understand them, in a strict grammatical construction of the whole clause, must be taken in the same large and comprehensive sense, as they first conveyed; because the terms, "Such actual settlement," used in the middle of the section, are repeated in the proviso, and refer to the settlement described in the foregoing part; and the words, "actual settlement as aforesaid," evidently relate to the enumeration of the qualities of such settlement. Again, the confining of the settlement to be within the space of two years, next after the date of the warrant, seems a strange provision. A war with the Indian natives subsisted when the law passed, and its continuance was uncertain. The state of the country might prevent the making of surveys for several years; and until the lands were appropriated by surveys, the precise places where they lay, could not be ascertained generally.

Still, I apprehend that the intention of the legislature may be fairly collected from their own words. But I cannot accede to the first construction, said to have been made of the proviso in the 9th section; because it rejects, as wholly superfluous, and assigns no operation whatever, to the subsequent expressions, "If any grantee shall persist in his endeavors, &c.," which is taking an unwarrantable liberty with the law. Nor can I subscribe to the second construction stated, because it appears to me to militate against the general spirit and words of the law, and distorts its great prominent features in the passages already cited, and for other reasons which I shall subjoin, I adhere to the third construction, and will now again consider the 9th section. It enacts, in the first instance, that, "No warrant, &c. Provided, &c."

"Persist" is the correlative of attempt or endeavor, and signifies "hold on," "persevere," &c. The beginning words of the section, restrict the settlement, "to be within two years next after the date of the warrant, by clearing, &c. and by residing for the space of five years, next following his first settling of the same, if he or she shall so long live;" and in default thereof, annexes a penalty of forfeiture, in a mode prescribed. But the proviso relieves against this penalty, if the grantee is prevented from making such settlement by force, &c. and shall persist in his endeavors to make such actual settlement as aforesaid. The relief, then, as I read the words, goes merely as to the times of two years next after the date of the warrant, and five years next following the party's first settling of the same; and the proviso declares, that persisting, &c. shall be equivalent to a continuation of the settlement.

To be more intelligible, I paraphrase the 9th section, thus:—Every warrant holder shall cause a settlement to be made on his lands within two years next after the date of his warrant, and a residence thereon for five years next following the first settlement, on pain of forfeiture by a new warrant. Nevertheless, if he shall be interrupted, or obstructed, by external force, from doing these acts within the limited periods, and shall afterwards persevere in his efforts in a reasonable time, after the removal of such force, until those objects are accomplished, no advantage shall be taken of him, for the want of a successive continuation of his settlement.

The construction I have adopted, appears to me to restore perfect symmetry to the whole act, and to preserve its due proportions. It affords an easy answer to the ingenious question proposed by the counsel of the Holland company. If, say they, immediately after a warrant issues, a settler, without delay, goes on the ground the 11th of April, 1792, and stays there until

the next day, when he is driven off by a savage enemy, after a gallant defence; and then fixes his residence as near the spot, as he can, consistently with his personal safety, does the warrantee lose all pretensions of equity? or, suppose he has the good fortune to continue there, firmly adhering to the soil, for two or three years, during the Indian hostilities; but is, at length, compelled to remove by a superior force; is all to go for nothing, and must he necessarily begin again? I answer to both queries in the negative; by no means. The proviso supplies the chasm of successive years of residence; for every day and week he resides on the soil, he is entitled to credit in his account with the commonwealth; but, upon a return of peace, when the state of the country will admit of it, after making all reasonable allowances, he must resume the occupation of the land, and complete his actual settlement. Although a charity cannot take place according to the letter, yet it ought to be performed *cy-pres*, and the substance pursued. 2 Vern. 266. 2 Fonbl. 221.

It has been objected, that such a contract with the State, is unreasonable and hard on the landholders, and ought not to be insisted upon. It will be said in reply, they knew the terms before they engaged in the bargain, and must abide by the consequences. The only question is, whether the interpretation of it be correct or not.

7th. A due conformity to the provisions of the act, is equally exacted of those who found their preference to lands on their personal labour, as of those who ground it on the payment of money. I know of no other distinctions between these two sets of land holders, as to actual settlement and residence; than that the claims of the former, must be limited to a single plantation, and the labour be exerted by them, or under their direction; while the latter may purchase as many warrants as they can, and make or cause to be made, the settlements required by law. Addison, 340, 341.

It is admitted on all sides, that the terms of actual settlement and residence, are, in the first place, precedent conditions, to the vesting of absolute estates in these lands; and I cannot bring myself to believe, that they are dispensed with, by unsuccessful efforts, either in the case of warrant holders, or actual settlers. In the latter instance, our uniform decision: have been, that a firm adherence to the soil, unless controlled by imperious circumstances, was the great criterion, which marked the preference in such cases; and I have seen no reason to alter my opinion.

8th. Lastly, it is obvious from the preamble, and sect. 2, that the settlement of the country, as well as the sale of the lands, was meditated by this law; the latter, however, appears to be a secondary object with the legislature. The peopling of the country, by a hardy race of men, to the most extreme frontier, was certainly the most powerful barrier against a savage enemy.

Having been thus minute in delivering my opinion, it remains for me to say a few words, respecting these persons who have taken possession of part of these lands, supposing the warrants to be dead, according to the *cant word* of the day, and who, though not parties to the suit, are asserted to be implicated in our decision. If the lands are forfeited in the eye of the law, though they have been fully paid for, the breach of the condition can only be taken advantage of by the commonwealth in a method prescribed by law. Innumerable mischiefs, and endless confusion, would ensue, from individuals taking upon themselves to judge when warrants and surveys cease to have validity, and making entries on such lands at their will and pleasure. I will repeat what we told the jury in Morris's lessee v. Neighman and Sheiner: "If the expressions of the law were not as particular as we find them, we should have no difficulty in pronouncing, that no person should take advantage of their own wrong, and that it does not lie in the mouths of men, like those we are speaking of, to say the warrants are dead; we will take and withhold the

possession, and ther-by entitle ourselves to reap benefits from an unlawful act." On the whole, I am of opinion, that the rule should be discharged.

Smith, J. I have had a full opportunity of considering the opinion delivered by my brother Yeates; and as I perfectly concur in all its principles, I shall confine myself to a single declaration of assent.

Brackenridge, J. having been concerned for the Holland company, when at the bar, declined giving any opinion.

By the Court. Let the rule be discharged.

(To be continued.)

From the Pittsburg Gazette.

## SANDY AND BEAVER CANAL.

### Fellow Citizens:

At a meeting of the citizens of Pittsburg, held at the room of the Young Men's Society, on the 11th inst., to consider of taking measures to assist in the construction of the Sandy and Beaver Canal, we were appointed a committee to address our fellow citizens of Pennsylvania, on the object and advantages of the said canal.

In discharging the duty imposed upon us, we do not deem it necessary to enter into a detailed examination of the practicability, or comparative merits of this or any other proposed line of connection, between the Pennsylvania and Ohio canals. Our immediate object is, to present a brief statement of the advantages the Sandy and Beaver Canal presents—to state the proceedings of the company holding the charter, and to awaken the spirit of inquiry among our fellow citizens, as to the influence the completion of this undertaking will have upon the prosperity of Pittsburg, Philadelphia, and the State at large, and upon the public works connecting East and West Pennsylvania.

With a view to extend this communication as far as the Ohio canal, as early as the year 1827, a company was chartered by the Legislatures of Ohio and Pennsylvania, with authority to make a canal by the northern, or Mahoning route. In the following year a charter was granted to a company to make a canal on the southern, or Sandy and Beaver route. And during the session of the Ohio Legislature, in 1831—32, a company was incorporated to construct a rail road nearly on the route proposed for the Sandy and Beaver canal. All the efforts made by the friends of the northern route to obtain subscriptions to its stock, have hitherto proved unavailing, but we do not consider it our province to inquire into the reasons of this failure. Those persons who have believed a southern line of communication to be the most eligible, were for some time divided in opinion as to the preference to be given to a rail road or canal; but the omission of the Legislature of this State to consent to the act establishing the rail road, together with the advantages presented by the recent amendment to the charter of the canal company, and the consideration that all transshipment of merchandise from one boat to another may be avoided, by the use of tow boats on the Ohio river, have produced a general conviction favorable to the canal route.

A copy of the 3d section of the act amending the charter will be found at the conclusion of this address. By it, the time for the completion of the Sandy and Beaver canal is extended to twenty years. The organization of the company is authorized as soon as one hundred and fifty thousand dollars of the stock shall be subscribed; and a privilege is granted to the company which it is believed will produce a sum equal to the cost of constructing the canal, viz: that whenever twenty miles of said canal from the Ohio canal is completed, the whole of the toll on the passengers or goods accruing to the Ohio canal, that may pass twenty miles on the Sandy and Beaver Canal, either east or west, shall be paid to the Sandy and Beaver canal, for the full term of seven years after the completion of the said

twenty miles. As, for example, if a boat, with full freight and passengers, leaves Portsmouth, at the southern, or Cleveland, at the northern extremity of the Ohio Canal, and stops at New Lisbon, or proceeds to the Ohio river at the mouth of Little Beaver, the entire amount of tolls chargeable for the whole distance, is to be paid to the owners of the Sandy and Beaver Canal. And in like manner, if boats going westward depart from any point on the Sandy and Beaver canal, not less than twenty miles from its intersection with the Ohio canal, the amount of tolls payable on the Ohio canal for freight and passengers will be secured to the stockholders of the Sandy and Beaver canal.

In estimating the value of this privilege, the following calculation is, we believe, below the mark, rather than above it.

The cost of the Ohio canal, from Portsmouth to Cleveland was, in round numbers, \$5,000,000. The receipts of toll during the last year, amounted to 5 per cent. or 250,000 dollars, and the receipts of the present year, up to this time, as compared with the former, exceeded them by 60 per cent. and as no doubt can exist of a further annual increase to a great extent, we do not consider it unreasonable to suppose that by the time the Sandy and Beaver canal shall be finished, and the grant will take effect, say in four years, the amount of toll on the Ohio canal will at least be equal to 10 per cent. on the cost thereof, say 500,000 dollars.

We believe no doubt can be entertained of the diversion of a large portion of the trade now carried on by the Lakes and the New York canal, between the eastern cities and the interior of Ohio, and the other western states, to this place and Philadelphia, by way of the Pennsylvania canal, so soon as the connection may be completed by the proposed canal. It is also worthy of remark, that there are commonly from four to six weeks in the spring, at which time business is most active, that the Ohio, Pennsylvania, and the proposed canal, would be opened before the east and Lake Erie, the harbor of Buffalo, or the New York canal, is free from ice, and nearly as many weeks in the fall of the year when transportation along the lake is so hazardous, as would throw a large proportion of the western fall trade into the Pennsylvania and the Ohio canal.

From these data, we believe we are by no means too sanguine, in estimating the average annual amount of toll, on freight and passengers, which the stockholders of the Sandy and Beaver canal would be entitled to receive from the Ohio canal, at from one third to one half of the tolls, accruing to the state of Ohio from the Ohio canal, say from 150,000 to 200,000 dollars annually, which would, for the whole period of the grant, produce from one million to fifteen hundred thousand dollars, independent of tolls on the Sandy and Beaver route, while the cost of its construction, according to the estimate of the engineers, will not exceed one million of dollars.

The importance to Pittsburg, and to this State at large, of an unobstructed navigation to the centre of the state of Ohio and the Lakes, for nine or ten months in the year, is so evident to the most cursory inquirer, as not to require any exertion on our part to establish it. By means of steam tow boats on the Ohio, to the mouth of Little Beaver, boats loaded with merchandise can be conveyed from Portsmouth, on the Ohio, to Johnstown, at the western termination of the Portage rail road, in Pennsylvania, or vice versa, a distance of upwards of 500 miles.

A ready and most extensive market would be opened for many of our staple manufacturers, as iron, glass, &c. An opportunity would be afforded of introducing the salt from the Conemaugh into the interior of Ohio; thereby particularly excluding the supply of that article from New York, of which the importation into Cleveland is from 50 to 70,000 bbls. annually.

The distance from the Ohio canal to Philadelphia would be rendered smaller, and the communication

more direct, and less hazardous than to any other of the eastern cities; whereby the business of the Pennsylvania canal and rail road would be greatly increased, thus enabling this State to reduce the rate of tolls so as to defy the competition of either her northern or southern rivals for the western commerce.—And as an object of profit to the capitalist, the present undertaking affords an inducement well worthy of attention.

A sufficient amount of stock has been already subscribed (chiefly by the public spirited farmers of Ohio) to authorise the company to commence operations, and an election for Directors will be held at Hanover on the 18th inst. The first object of the Board will be to have the whole route again surveyed by a competent engineer, with a special view to the supply of water, on the summit level, not to satisfy their own minds, but to inspire confidence in those persons who reside at a distance, and who may be unacquainted with the country through which the route passes, and with the advantages it presents for the undertaking.

No payments will be required on the stock until active operations are commenced—after which instalments will be called in from time to time as the work advances, agreeably to the directions of the Board of Directors, after giving 30 days notice of each payment. The original charter of the company exempts the stock and property thereof from taxation by the state of Ohio, and is, in all other respects, very liberal in its provisions.

The shares are \$100 each, and each share is entitled to a vote either in person or by proxy.

THOMAS BAKEWELL,  
O. METCALF,  
SAML. CHURCH,  
Committee.

“Sec. 3. That when the canal authorized to be constructed by the act entitled an act to incorporate the Sandy and Beaver Canal Company, shall have been completed twenty miles from the Ohio canal, said company shall be entitled to collect and receive the tolls accruing on the Ohio canal, on all freight and passengers that may be transported thereon, and which have been transported not less than twenty miles upon said Sandy and Beaver canal to the Ohio canal, and to receive the toll on all freight and passengers that may be transported thereon, and discharged and landed in said Sandy and Beaver canal, at any point not less than twenty miles from the Ohio canal, for the term of seven years from and after the completion of the twenty miles of canal, as aforesaid.”

**SANDY AND BEAVER CANAL.**—We understand that about *ten thousand dollars* of the stock in this improvement were taken by some of our fellow citizens, conditioned not to be paid until a competent and trust worthy engineer shall report that there is an abundant supply of water on the route. We are told that a proposition will be made to the Board of Directors, who are to be chosen this day, to refer the choice of the engineer to capitalists and others, in Philadelphia. If this course should be adopted, and the report prove favorable, there will be no difficulty in obtaining the necessary amount of stock—the terms of the charter being highly favorable.—*Pittsburg Gazette*, July 18.

From the U. S. Gazette, July 22.

#### FUNERAL HONORS TO LAFAYETTE.

Yesterday was consecrated, by our citizens to the public expression of their respect for the virtues of Lafayette, and their regret for the death of that friend of man and human liberty. Arrangements were made, last week, to bring into a procession some of almost every class of citizens, and suitable persons were appointed to Marshal the whole into a prescribed order. Ear-

ly in the morning of yesterday the solemn toll of the State House bell, gave note of the business of the day.

About 8 o'clock the several bodies, companies, institutions, &c. assembled at the proper place of rendezvous, preparatory to a march to Chestnut street, where the line was to be formed.

The State House Yard, Independence Square, was the place of meeting of many companies. The City Officers assembled in Independence Hall, with them were many strangers of distinction; the French citizens and their descendents, and members of the corporation of the adjoining districts. Between 10 and 11 o'clock, one of the marshals gave directions for the gentlemen present to take their places in the line.

The volunteer companies of the 1st division commanded by Major General Patterson, took the right.—The military made a fine appearance, the side arms and the standards being dressed with crape.

To these succeeded the officers of the division not on duty.

The Chief Marshal and his aid then followed.

Next a beautiful white charger dressed with black, the mane braided and decorated with black ribbon—led by two grooms.

The Committee of Arrangement, with black mode on their hats.

The Judicial Officers of the city.

The Select and Common Councils, with a few strangers, among whom was General Towson, of the United States Army.

Then followed—

The Commissioners of the District of the N. Liberties,  
The Commissioners of the District of Southwark,  
The Commissioners of the District of Spring Garden,  
The Commissioners of the District of Kensington,  
The Commissioners of the Township of Moyamensing,

The Members of the Society of Cincinnati, and Revolutionary Officers generally,

The Officers of the Army and Navy of the U. S.

The Foreign Ministers and Consuls,

The Judges of the respective Courts of the United States, and of the State,

The Trustees and Officers of the University of Pennsylvania, and of the Jefferson Colleges,

The Philosophical Society, and the Penn Society, of which the deceased was a Member,

The Members of Congress, and of the General Assembly,

The whole of these in carriages.

Several Societies followed with badges and banners dressed in black.

The Young men of the city and county.

The *Fire Department* succeeded, some with their apparatus.

The *WASHINGTON* Hose Company had its apparatus dressed in crape, and the tri-coloured flag swept over the whole. The carriage was driven by horses richly dressed in black, and was preceded by a fine white charger, having on its saddle the uniform of a revolutionary soldier.

The *LAFAYETTE* Hose Carriage, was richly and appropriately dressed in the habiliments of mourning, it was drawn by four horses caparisoned in black.

The whole procession moved in the following streets:

Down Chestnut street to Fourth street,  
Down Fourth street to Catharine street,  
Up Catharine street to Sixth street,  
Up Sixth street to Walnut street,  
Up Walnut street to Ninth street,  
Up Ninth street to Chestnut street,  
Up Chestnut street to Twelfth street,  
Up Twelfth street to Arch street,  
Down Arch street to Ninth street,  
Up Ninth street to Vine street,

Down Vine street to Sixth street,  
Up Sixth street to Green street,  
Down Green street to Fourth street, and  
Down Fourth street to Zion Church.

When the head of the column arrived at Zion Church it halted, and opened the columns. The civic portion of the procession in carriages alighted and the whole marched through the military into the church. The time consumed in marching was about two hours and a half.

The ceremonies of the church, the prayer by the venerable Bishop White, dressed in his Episcopal robes, the address of Dr. Duponceau, the friend and military aid of Lafayette, and all attendant circumstances, were of a nature suited to the occasion.

Our situation during the ceremonies was not favorable to observation, and after the above was prepared, one about our establishment handed us the subjoined particulars. We noticed that among our highly respected French fellow-citizens, was the French Consul in his official dress.

#### *French Citizens.*

In plain dress—with badges, mourning crape and tri-coloured cockade.

Preceded by two banners—the American and tri-colour of France.

#### *Patriot Exiles from Poland.*

In plain citizen's dress—with badges and crape.

#### *La Fayette Beneficial Association of Pennsylvania.*

Banner, a black ground, with gold letters, trimmed with white edging, enclosed with black crape.

#### *Typographical Society of Philadelphia.*

Banner, tri-colour; Device, A Tomb surmounted by a portrait of the departed hero.

#### *Firemen.*

*Aid.* Chief Marshal. *Aid.*

Mounted on black horses, with decorations in deep mourning.

#### *La Fayette Fire Company.*

With Hose Carriage, drawn by four splendid black horses, dressed in mourning, with black plumes, &c. carriage trimmed with crape and bearing an admirable portrait of Lafayette. Members in firemen's dress, with tri-coloured crapes, and a beautiful and appropriate banner presented to the company by ladies.

#### *Hibernia Engine.*

Members in plain citizen's dress, with appropriate badges, and crape on the left arm. Banner green and gold trimmed with black crape.

#### *Philadelphia Hose Company.*

Dress, black coat and white pantaloons. Black silk banner, with gold letters and devices.

#### *Northern Liberty Engine, No. 1.*

Dress, black coat and white pantaloons, badges, with fire trumpet, covered with black; a rich banner, beautifully decorated, and presented to the company by the young ladies of the Northern Liberties.

#### *Washington Engine Company.*

Splendid portrait of Washington, shrouded in black crape. Members in black coats and white pantaloons, badges and scarfs.

#### *Vigilant Engine Company.*

Green banner, with a splendid gold eagle; red trimming; festooned with black crape. Members with badges and mourning crape.

#### *Resolution Hose Company.*

Members in plain neat dress, with appropriate mourning emblems. Banner, white satin, bearing in the centre a well finished hydrant; trimming, black ribbon and crape.

#### *Delaware Engine Company.*

Large splendid banner, white and trimmed with black crape, centre representing a noble ship, with a fine view of the river which gives its name to the company.

#### *Humane Hose Company.*

White banner with black festoons and trimming, centre exhibiting a beautiful female figure. Members in plain dress, and appropriate badges and mourning.

#### *Hand-in-hand Engine Company.*

Members in black dresses with badges and crape.—Banner furled, of deep blue with gold spread eagle.

#### *Reliance Engine Company.*

Members in mourning; banner, green and gold.

#### *Hope Hose Company.*

Six appropriate banners; white satin, device and decorations in sky blue and gold; members in black, coats and pantaloons, remarkably neat.

#### *Assistance Engine Company.*

White banner covered with black crape; members in mourning with appropriate badges, scarfs, &c.

#### *Southwork Hose Company.*

Members with badges, hats bound with black crape, banner white and gold, with deep festoons of black crape, and appropriate trimmings, &c.

#### *Kensington Engine Company.*

Members with appropriate dress. Splendid banner with a well designed representation of a fireman bearing a female from a house, the interior of which is in flames, motto, "To the rescue."

#### *Phoenix Hose Company.*

Members in black coats and white pantaloons, with badges and black crape scarfs, &c. Banner, blue field and gold decorations.

Marshal in black, and mounted.

#### *Fame Hose Company.*

Members in black dress, with badges. Banner—a splendid emblem of Fame, surrounded with festoons of black crape.

#### *Humane Fire Engine Company.*

Members in black coats and white pantaloons, with badges, very neat. Banner of dark blue, deeply trimmed with black crape.

#### *Diligence Hose Company.*

Members with badges. Banner representing a splendid landscape.

#### *Columbia Hose Company.*

White banner. Red and gold, emblematical vignette, the whole festooned and surrounded with black crape. Members in mourning.

#### *Hope Engine Company.*

Splendid white banner, with rich gold mountings, entwined with roses. Members with badges and scarfs.

#### *Niagara Hose Company.*

Banner, white satin; vignette—a well painted view of the Falls of Niagara; the whole deeply shrouded in mourning. Members with badges.

#### *America Hose Company.*

Splendid gold rays on blue ground, surmounted with a gold eagle, trimmed with black crape. Members in black, with badges of silver, mottoes on black ground.

#### *Good Will Hose Company.*

Members appeared to great advantage in the procession. Particular description not obtained.

#### *Robert Morris Hose Company.*

Banner, the Genius of Liberty supporting a well

painted portrait of Robert Morris. Members in black coats and white pantaloons; with badges, mottoes, &c.

*United States Engine Company.*

Banner, green and gold, with suitable inscriptions and devices. Members in mourning.

*Pennsylvania Hose Company.*

With a tastefully ornamented banner, presented by the young ladies of Penn township. Members with badges and scarfs.

*Fair Mount Engine.*

Banner presented a remarkably effective view of Fair Mount, which elicited universal admiration. Members with badges, &c.

*Marshal.*

*Plasterer's Beneficial Association.*

Banner, description not obtained. Members with badges and appropriate mourning dress.

*Moulders' Association.*

Banner, gold and blue, trimmed with black crape. Members with badge and scarfs.

A large number of Lads, amounting to two or three hundred, from the age of ten to fourteen, walked in the procession with suitable badges and banners bearing portraits of Washington and Lafayette, and conducted themselves with becoming order and propriety.

*Society of Journeymen Cabinet Makers.*

A large number of the members appeared on the ground, preceded by a magnificent banner, trimmed with black. Members dressed in deep mourning, with badges, sashes and scarfs.

*Lafayette Club, No. 1.*

Banner, blue and gold, with appropriate decorations. Members with badges, &c.

Several other clubs and associations joined in the funeral procession with suitable banners and badges, &c. the particulars of whose arrangements, &c. have not been received.

A large number of citizens, mounted on horse back, brought up the rear, and concluded the procession. It occupied upwards of one hour in passing the corner of Fourth and Pine streets.

*Washington Hose Company.*

The spirited young gentlemen connected with this institution, like their associates of the Lafayette Hose, acquitted themselves in a manner highly creditable.—This carriage was also drawn by four noble black horses, preceded by a splendid milk white charger, led by two servants. The carriage, surmounted by four beautiful banners, and deeply festooned with black crape, was accompanied by the members in the dress of firemen, bearing a magnificent banner, with a portrait of Washington—the whole shrouded in black crape.

*Marshal.*

*Society of Journeymen Tailors.*

Large and appropriate banner—in the centre a portrait of Washington—the whole neatly trimmed with black. The members were numerous, and with their mourning habiliments, added greatly to the effect of the procession.

*Society of Journeymen Hatters.*

Banner white, green and gold, with appropriate emblematic devices, shrouded into deep mourning—members with badges and scarfs.

*Two Marshals.*

*Morocco Dressers, Tanners and Skinners.*

A beautiful banner, emblematic of their profession, in a field of deep blue, and trimmed with black. Members with appropriate badges, &c.

TABLE OF GOLD COINS.

Calculated and arranged, expressly for *Moore's Philadelphia Price Current*, according to the actual rule in use at the *United States Mint* for estimating the value of gold. The correctness of the table is guaranteed.

Old Standard, 22 carats,

New do 21 2 14-43.

By which the actual value of the Eagle coined prior to the 31st July, 1834, is \$10 66 8 10.

NAMES OF COINS.	weight		Contents in pure gold.		Old value.	New value.
	dw. gr.	gr. m.	d. c. m.	d. c. m.		
AUSTRIAN DOMINIONS.						
Souverain	3 14	78 6	3 17 6	3 38 8		
Double Ducat	4 12	106 4	4 29 9	4 58 6		
Hungarian do.	2 5½	53 3	2 15 4	2 29 7		
BAVARIA.						
Carolus	6 5½	115	4 64 6	4 95 6		
Max d'or, or Maximilian Ducat	4 4	77	3 11 1	3 31 8		
BERNE.	2 5½	52 8	2 13 3	2 27 6		
Ducat, double in proportion	1 23	45 9	1 85 4	1 97 7		
Pistole	4 21	105 5	4 26 2	4 54 6		
BRAZIL.						
Johannes, ½ in proportion	18		16	17 06 8		
Dobraon	34 12	759	30 66 6	32 71 4		
Dobra	18 6	201 5	16 22 2	17 30 5		
Moidore, ½ in proportion	6 22	152 2	6 14 9	6 55 9		
Crusado	16½	14 8	59 8	63 7		
BRUNSWICK.						
Pistole double in proportion	4 21½	105 7	4 27 1	4 55 6		
Ducat	2 5½	51 8	2 09 2	2 23 1		
COLOGNE.						
Ducat	2 5½	52 6	2 12 5	2 26 6		
COLUMBIA.						
Doubloons	17 8½	372	14 56	15 53 2		
DENMARK.						
Ducat, Current	2	42 2	1 70 5	1 81 8		
Ducat Specie	2 5½	52 4	2 12 5	2 26 7		
Christian d'or.	4 7	93 3	3 77	4 02 1		
EAST INDIA.						
Rupce, Bombay, 1818.	7 11	164 7	6 65 4	7 09 6		
Rupce of Madras, 1812.	7 12	165	6 66 7	7 11		
Pagoda Star	2 4½	41 8	1 68 9	1 80 1		
ENGLAND.						
Guinea, ½ in proportion.	5 9½	118 7	4 79 6	5 11 6		
Sovereign, do	5 3½	113 1	4 57	4 87 5		
Seven Shilling Piece	1 19	39 6	1 60	1 70 6		
FRANCE.						
Double Louis, coined before 1786.	10 11	224 9	9 08 7	9 69 4		
Louis do.	5 5½	112 4	4 54 1	4 84 4		
Double Louis, coined since 1786.	9 20	212 6	8 59	9 16 3		
Louis, do. do	4 22	106 3	4 29 5	4 58 1		
Double Napoleon, or 40 francs	8 7	179	7 23 2	7 71 3		
Napoleon or 20 do.	4 3½	89 7	3 62 4	3 86 6		
FRANKFORT ON THE MAIN.						
Ducat	2 5½	52 9	2 13 7	2 27 9		
GENEVA.						
Pistole old	4 7½	92 5	3 73 7	3 98 6		
Pistole new	3 15½	80	3 23 2	3 44 8		
HAMBURG.						
Ducat double in proportion.	2 5½	52 9	2 13 7	2 27 9		
GENOA.						
Sequin	2 5½	53 4	2 15 8	2 30 2		

NAMES OF COINS.	weight		Contents in pure gold.	Old value	New value	NAMES OF COINS.	weight		Contents in pure gold.	Old value	New value
	dw. gr.	gr. m.		d. c. m.			dw. gr.	gr. m.		d. c. m.	d. c. m.
<b>HANOVER.</b>						<b>Gold Ruble 1799</b>	18½	17	1	69 1	73 7
George d'or.	4	6½	92	6	3 74 1	do Poltin 1777	9	8	2	33 1	35 3
Ducat	2	5½	53	3	2 15 4	Imperial 1801	7	17½	181	9	7 34 9
Gold Florin, double in proportion	2	2	39		1 57 6	Half do 1801	3	20½	90	9	3 67 3
<b>HOLLAND.</b>					1 68 1	do do 1818	4	3½	91	3	3 68 9
Double Ryder	12	21	283	2	11 44 2	<b>SARDINIA.</b>					3 93 5
Ryder	6	9	140	2	5 66 5	Carlino, ½ in proportion	10	7½	219	8	8 88 1
Ducat	2	5½	52	8	2 13 3	<b>SAXONY.</b>					9 47 4
1 en Guilder Piece	4	8	93	2	3 78	Ducat 1784	2	5½	52	6	2 12 5
5 do. in proportion					4 05 2	do 1797	2	5½	52	9	2 13 7
<b>MALTA.</b>						Augustus 1754	4	6½	91	2	3 68 5
Double Louis	10	16	215	3	8 69 9	do 1784	4	6½	92	2	3 72 5
Louis	5	8	108	4	4 36 4	<b>SICILY.</b>					3 97 4
Demi Louis	2	16	54	5	2 20 2	Ounce, 1751	2	20½	58	2	2 35 1
<b>MEXICO.</b>					2 34 9	Double do 1758	5	17	117		4 72 7
Doubloons, shares in proportion	17	8½	372		14 56	<b>SPAIN.</b>					5 04 2
<b>MILAN.</b>					15 53 2	Quadruple Pistole, or					
Sequin	2	5½	53	2	2 15 6	Doubloons, 1772, double and single & shares in proportion	17	8½	375	3	15 03 1
Doppia or Pistole	4	1½	88	4	3 57 2	Doubloon 1801	17	9	360	5	14 56
Forty Lire Piece, 1808.	8	8	179	7	7 26 1	Pistole 1801	4	8½	90	1	3 64
<b>NAPLES.</b>					7 74 6	Coronilla, Gold dollar, or Vintem 1801.	1	3	22	8	92 1
Six Ducat Piece, 1783	5	16	121	9	4 92 5	<b>SWEDEN.</b>					98 2
Two do. or Sequin, 1762	1	20½	37	4	1 51 1	Ducat	2	5	51	9	2 09 7
Three do. or Oncetta 1818	2	10½	58	1	2 34 7	<b>SWITZERLAND.</b>					2 23 7
<b>NETHERLANDS.</b>					2 50 3	Pistole of Helvetic Republic, 1800	4	21½	105	9	4 27 9
Gold Lion or Fourteen Florin Piece	5	7½	117	1	4 73 1	<b>TREVES.</b>					4 56 4
Ten Florin Piece 1820	4	7½	93	2	3 76 6	Ducat	2	5½	52	6	2 12 5
<b>PARMA.</b>						<b>TURKEY.</b>					2 26 7
Quadruple Pistole, double in proportion	18	9	386		15 59 6	Sequin fondueci, of Constantinople 1773	2	5½	43	3	1 74 9
Pistole or Doppia 1787	4	14	97	4	3 93 5	do 1789	2	5½	42	9	1 73 3
do do 1796	4	14	95	9	3 87 5	Half Misceir, 1818	18½	12	16	49	1
Maria Theresa 1818.	4	3½	89	7	3 62 4	Sequin Fondueci, Yermeebeshlek	2	5	42	5	1 71 7
<b>PIEDMONT.</b>					3 87	<b>TUSCANY.</b>	3	1½	70	3	2 84
Pistole coined since 1785 half in proportion	5	20	125	6	5 07 5	Zechino or Sequin	2	5½	53	6	2 16 6
Sequin, ½ in proportion	2	5½	52	9	2 13 7	Ruspone of the kingdom of Etruria	6	17½	161		6 50 5
Carlino coi'd since 1785, half in proportion	29	6	634	4	25 63 2	<b>UNITED STATES OF AMERICA.</b>					6 93 9
Piece of 20 Francs called Marengo.	4	3½	82	7	3 34 1	Eagle, coi'd before July 31, 1834.	11	6	247	5	10
<b>POLAND.</b>					3 56 5	do. coined after July 31, 1834.	10	18	232		10
Ducat	2	5½	52	9	2 13 7	Shares in proportion.					
<b>PORTUGAL.</b>					2 27 9	<b>VENICE.</b>					
Dobraon	54	12	759		30 66 6	Zechino or Sequin shares in proportion	2	6	53	6	2 16 6
Dobra	18	6	401	5	16 22 2	<b>WIRTEMBERG.</b>					2 31
Johannes	18			16	17 06 8	Caroln	6	3½	113	7	4 59 4
Moidore, ½ in proportion	6	22	152	2	6 14 9	Ducat	2	5	51	9	2 09 7
Piece of 16 Testoons, or 1600 rees.	2	6	49	3	1 99 2	<b>ZURICH.</b>					2 23 7
Old Crusado of 400 rees.	15	13	6		54 9	Ducat, double and half in proportion	2	5½	52	6	2 12 5
New do 480 do	16½	14	8		59 8						2 26 6
Millree, coined in 1755	19½	18	1		73 2						
<b>PRUSSIA.</b>					78 9						
Ducat, 1748	2	5½	52	9	2 13 7						
do. 1787	2	5½	52	6	2 12 5						
Frederick, double 1769	8	14	185		7 47 5						
do do 1800	8	14	184	5	7 45 4						
do single 1778	4	7	92	8	3 74 9						
do do 1800	4	7	92	2	3 72 5						
<b>ROME.</b>					3 97 3						
Sequin coi'd since 1760	2	4½	52	2	2 10 9						
Scudo of the Republic.	47	0½	367		14 82 8						
<b>RUSSIA.</b>					15 81 8						
Ducat, 1796	2	6	53	2	2 15						
do 1763	2	5½	52	6	2 12 5						
Gold Ruble 1756	1	0½	22	5	90 9						

COLLECTORS OFFICE, 2

Allegheny, W. D. Pa. Canal, July 19, 1834. }  
 Whole amount received since 1st Nov. 1833, as per last weekly statement, \$9,124 39½  
 Amount received in the week, ending July 18, 537 80

Whole amount received to July 19, 1834, \$9,662 19½  
 Boats cleared, 28, carrying 1,018,121 lbs. tonnage.  
 Foreign tonnage rec'd, 1,103,745 "

Total, 2,121,866 lbs.

### IMPORTANT DISCOVERY.

We have seen and examined a model of a Rail Road Car, invented by Mr. Jacob Bright, of Sunbury, which bids fair to become an important acquisition to Rail Road travelling; and to render the ascent and descent of the inclined planes entirely free from danger. The wheels are cast with *nicks* or *cogs* on the inner side of the *flange*, upon the principle of the rag wheel of a saw mill. On the body of the car are inverted iron *clicks* or *dogs* which alternately fall into these nicks as the car ascends or descend the plane; and in case of accident, by Cars becoming detached, or by the breaking of a rope (as was the case near Hollidaysburg, a few weeks ago) instantly lock the wheels and stop their progress. The invention is the more complete, as by the very process of breaking, which would otherwise cause accident, the wheels become locked, and the whole train of Cars, no matter what may be the elevation of the plane, are checked and held fast.

It is believed that, with this improvement, Rail Road transportation will become entirely safe, and hence it is important to the whole community. Application has been made for a Patent; and measures will immediately be taken by Mr. Bright to introduce the improvement into public use.—*W. M. Advocate.*

### MONSTROSITY.

A most singular birth took place in this borough, on Saturday the 12th inst. Male twins were still-born so closely connected that they must be considered as one. The heads, upper and lower extremities are distinct and well formed; the chest and abdomen are united, and the breast bone instead of running vertically as is natural, runs horizontally from the upper part of the chest of one, and that of the other. The anomaly of the viscera of this double thorax, consists in their being but one heart, for the purposes of circulation, this is placed between the lungs of each child. The umbilical cord is single. The viscera of the abdomen has not as yet been inspected.—Monstrosities arising from deficiencies of limbs, viscera, &c., we learn, are not uncommon, but a case so formed as the one under consideration is, we believe, without a parallel in the annals of Medicine.

They are now in the possession of Dr. H. D. W. Pawling, of Upper Merion, at the King of Prussia Hotel.—*Norristown Register.*

From the Beaver River Gazette.

### FREDERICK RAPP.

A letter to a gentleman of this place, dated Economy, June 25th, contains the intelligence of the death of FREDERICK RAPP, Esq. at his residence, on Tuesday evening, the 24th inst. He had returned but a few days since, from a visit to Philadelphia, whither he had gone for the purpose of consulting the most eminent of the faculty on his disease, (dropsy of the chest,) under which he had been for some months declining. Flattered by the encouragement held out, he returned with hopes of renewed health, which the "grim visitor" hastened to destroy.

Mr. R. was for some years the director and financier of the Economy Society—a man of vigorous mind, enlarged views, and sound principles. His loss will be deeply regretted by a large circle of acquaintance; to the society it will be irreparable.

### DEATH OF GOVERNOR PORTER.

George B. Porter, Governor of Michigan, died at his residence at Detroit, on Sunday, the 6th inst., after an illness of three days, in the 44th year of his age, and the third of his administration of the government.—Governor P. was a native of Montgomery county, but latterly of the city of Lancaster, where he was much respected as an able practitioner at the Bar.

The funeral of Gov. Porter was attended at Detroit on the 7th inst. with every demonstration of public respect and sorrow. An address was pronounced over the remains, in the Capitol, by the Rev. Mr. Cleveland. Minute guns were fired from the time the procession moved until sundown: the shops were closed during the afternoon, and the flags of the shipping were at half mast.

The Buffalo Whig says: "Governor P. was appointed to the government of Michigan under the present national administration, and he was one of the few with whom party feeling did not rise above every other consideration. In his official, as well as private capacity, we are told his liberal sentiments and practices endeared him to a wide circle of all parties; and that, as he administered the laws for the benefit of all, so will his memory long be respected by the people."

### DEATH OF JONAH ROGERS.

Died, in Huntingdon on the 20th inst. Mr. *Jonah Rogers*, in the 65th year of his age. The deceased was a member of the Baptist church, and died in a full assurance of a glorious immortality.—He was one of the first Connecticut settlers in this country and was here during the hardships experienced in new counties, and the dangers of savage warfare in the troublesome times with the enemy in the Revolutionary war, and was taken prisoner by the Indians when quite a lad, together with Major Van Campen and the celebrated Abraham Pyke, and assisted to *kill off* the Indians, one of whom only (John Mohawk well known to the writer,) escaping with a dangerous wound in the neck given by Major Van Campen, with a Tomahawk. In the year 1799, John met the Major at a public house in the western wilds of New York, and immediately recognized him (although 20 years after the Tomahawk wound,) and proffered the hand of friendship, saying, "You, Van Camp, I know you; you know me?"—The Major shook his head.—The savage pulled off his blanket and exhibited the wound in his neck. "Now you know me?—no enemy now, Van Camp; war time den—peace time now—we be very good friend: come, we take a drink!" (A lesson for many a white skin!) The readers of this obituary will excuse the digression from the subject, which appeared to be necessary to tell out the tale. Mr. Rogers after severe suffering arrived at the settlement with his older companions in safety, and has now retired to everlasting rest.—*Wilkesbarre Herald, Jan. 29, 1834.*

### THE AMERICAN MOLE LOCUST.

No. 10.

To the Editor of the Register.

LANCASTER, July 22, 1834.

The eggs of the Locust are producing the young insects in the Pupa form, and as they appear they descend to the earth to escape from the sun and light.

In the English Annual Register, page 103, you will find an interesting letter from Moses Bartram, to Peter Collins on this subject.

I respectfully suggest the re-publication in your valuable Register.

Yours with regard,

C. R.

CORONERS.—We renew our list of arrivals through this new source of wealth to our Borough, and we feel pleasure in announcing the arrival of a load of glass, direct from Pittsburgh, via the Pennsylvania canal. This is one other evidence that the wealth and importance of YORK, are yet in embryo, and that the day is not distant when we shall command the advantages of the whole internal trade of Pennsylvania.—*York Rep.*

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 5. PHILADELPHIA, AUGUST 2, 1834. NO. 343.

## REPORT ON EDUCATION.

At a meeting of the friends of Education, held in the Academy at Newtown, on the 7th of June, 1834—Mr. RIDGELY, from the Committee\* appointed at a previous meeting, for the purpose of suggesting some suitable plan for the promotion of general Education in this section of the Commonwealth, read the following Report.

The general subject of Education is one of primary consequence, not only to this community, but to the nation of which it forms a part—and to the world at large. And it is one of the most cheering indications which society exhibits at the present time, that the master spirits of mankind, are every where becoming awake to its importance. The rulers of almost every civilized land, are at this moment agitating important questions, respecting the best method of giving instruction to their people—or bringing all the energies of government to bear, in the application of plans which have already been devised. In Russia, Prussia, Germany and France, the department of public instruction is that to which all eyes are directed with the most absorbing interest; and even free America may now learn some important lessons connected with the preservation of her Liberty, by beholding what is done in less favored countries beyond the seas. Within our own borders too, a salutary excitement is beginning to appear. The South is taking the matter into serious consideration—the West is all alive to it—the North with steady and characteristic impetus, is advancing in “the full tide of successful experiment!”—and even our own “key-stone Commonwealth,” so long lethargic, is at length, evidently on the move.

The views which your Committee are desirous to express, very naturally arrange themselves in the order of the following propositions.

I. Popular Education is a matter of universal and primary concern.

II. It can flourish only—by the creation of an enlightened *public sentiment* respecting it.

III. This can be most efficiently accomplished by voluntary combination in co operation with legislative effort.

I. It is a remark so frequently made, as almost to lose its power of impression, that public intelligence and virtue, constitute the two great pillars of society in a Republic. It is one, however, which should weigh heavily upon the mind of every freeman. Whoever will reflect on the past history of this nation; whoever will contemplate without prejudice, the scene which is even now transpiring before our eyes, can scarcely fail to be convinced, that, in America there is one great interest, which should be held paramount to all others. And it is a matter of surprise, that our public sentinels, who, as they stand in the watch-towers of the Republic, or walk their daily round upon its walls, so often startle us with the cry of Constitution violated—laws trampled upon—liberty invaded, should so seldom point to

that colossal enemy of all that is good and fair in a free government—*popular ignorance*.

What is it at which the American Patriot is most easily alarmed, as he surveys the prospect which is opening around his country? What is it that the statesmen chiefly apprehends as likely to mar every system of enlightened legislation? What is the most formidable obstacle that the philanthropist finds to oppose his plans of social improvement? What is the great difficulty with which the preachers of Christianity, of every name have mainly to contend, when laboring to establish the leading doctrines of religion? He who has been accustomed to estimate correctly, the moral forces that operate in society, will answer at once, to each of these interrogatories, it is popular ignorance.

The youth of this country are taught to read, and to write, it may be, but how few even of those who have been sent to school are taught to *think*. And can the most difficult of human arts be acquired without instruction? If manacles were forged for the understanding of the *boy* in that juvenile penitentiary, as it too frequently becomes, the school room; what wonder is there if the intellect of the *man* should be found in chains. If the philanthropists of this country, are ever to accomplish any thing, either for the civil, political, or moral improvement of their fellow men, they must mount up at once to the head springs of society, which are our common schools. The waters of the deep and majestic river cannot be changed—you may perhaps cleanse its mountain sources—it is certain, at all events, that the stream never can be pure while the fountains remain polluted.

The Governor of this Commonwealth, in a recent message, utters a trumpet tongued appeal to his fellow-citizens on this subject. In that document the extraordinary fact is stated, that there are nearly 600 thousand children in Pennsylvania, under the age of 15 years, and nearly 150 thousand between 15 and 20; and out of this number there is reason to believe that 380 thousand are destitute of instruction. And of those who are sent to school, how few, comparatively, acquire any thing that deserves to be called education. There are multitudes who learn to read, and (in consequence of defective methods of teaching) learn nothing more.—But this is not knowledge; it is only the instrument by which knowledge is acquired. Some of the most deplorably ignorant men who are to be met with in society, are persons who have been taught to read, without being inspired with a love of information. “Assuming the last census as a basis, (says the Committee on Education in their report to the Legislature of Pennsylvania,) we have 633,849 children under the age of 20: between four and five hundred thousand of these are, by the Constitution placed\* under the guardianship of the Legislature; of which, by official returns made last year to the Secretary of the Commonwealth, only 17,462 are now receiving (and that nominally, perhaps,) instruction *gratis*. Here then are 400,000 at

\* The Committee were G. W. Ridgely, John Yardly, Phineas Jenks, John H. Gordon, John Stewart, and Aaron Feaster.

\* The official returns relate only to the number of poor scholars paid for by the different counties; not enumerating the number destitute of the means of Education.—ED. LIT. DEE.

least, wholly without any kind of schooling; yet we now only begin to hear a murmur of discontent."

"In Pennsylvania, (says the same valuable document,) our right of suffrage is as broad as possible. A citizen who pays a tax of a few cents only, can go to the election with power equal to him who pays a tax of many hundred dollars; and by his vote directs the public weal with the same authority as the richest citizen. It becomes necessary, therefore, to give the man of humble means, an opportunity of understanding the advantages in which he so largely shares.

Upon the same authority we have the startling fact, that in Pennsylvania, there is a large number of voters who cannot read the tickets that are handed to them at the polls—and their number is annually increasing.—Surely such a state of things may well create alarm in the bosom of every lover of his country. Surely it ought to be sufficient to arouse the leaders of society in this commonwealth, from that indifference to the condition of the popular intellect by which they have hitherto been ungraciously distinguished.

II. *Education can be made to flourish only by the creation of an enlightened public sentiment respecting it.* In stating this proposition, your committee do not design to depreciate the value of legislative aid—on the contrary, they believe that the cause of Education cannot well do without it; and they confidently hope that the late movement in our Legislature, indicates the dawn of a brighter day than we have ever before experienced. But enactments of this character, when unsustained by public feeling, are almost always useless, and often pernicious in their results. If every parent in the land, valued education as it ought to be valued, not a child amongst all our youthful population would long remain uneducated. Every community has adequate resources within itself; and yet they are resources which legislative action, perhaps, only can develop;—let the aid from that quarter be sufficient to accomplish this, and every thing that is at all important will become achieved by it. But to teach a community to wait year after year, as a mendicant at the door of the public treasury, and rely solely upon legislative appropriations, would be to paralyze its energies, degrade education in the eyes of the people, and establish a sort of intellectual pauperism. On this subject the committee invite attention to the following observations, extracted from a letter which was written by the President of Transylvania University, in reply to one from Samuel Breck, Esq. Chairman of the Committee on Education in the Pennsylvania Legislature.

"Here I am confident is the source of all the evils complained of in relation to the defectiveness and imperfect diffusion of education: The people do not value it as they ought. Did they rank it among the necessities of life, instead of placing it low down on the list of dispensables, agents in abundance would soon find or create means to fit themselves to serve them in the very best manner. Is, it not, then, the demand for education, that needs to be stimulated? Let this become what it should be, and the supply will take care of itself. Convinced that every thing depends upon the prevalence of an enlightened and liberal public sentiment with regard to the value of education, we are addressing our efforts in Kentucky, to the production of this, as the great preliminary measure. Let our people once be taught to think that they cannot possibly do without good education, and they'll have it. Almost all other practical questions on the subject, then, resolve themselves into this: How can this sentiment be created?"

Your Committee are perfectly convinced, that besides the moral and social benefits which result from general Education, the pecuniary advantages arising from it, would be found to be of the most alluring character—on this subject President Peers, has the following strong observations:—

"If parental affection, duty, patriotism, pride, will

not excite a man to educate his children, (and we see they are not sufficient,) what can? I answer, the great ruling passion, *the love of money!* But this is just the cause which now fetters and depresses education. True—but it is because it is not enlightened. It does not know that the best possible way to seek its gratification, is to spend money freely for the production of intelligence, the ultimate source of all wealth. Knowledge is wealth, is just as worthy of becoming a settled maxim, as that which expresses the dependent relation between knowledge and power. I am surprised that political economists have not insisted upon this with greater emphasis, when detailing the sources of production. I am satisfied that it remains for their noble science to construct an argument, which, appealing to the point of greatest sensibility in the public mind, will do more for the diffusion and improvement of education, than all others that have yet been tried. Admitting that intelligence and wealth sustain to each other the relation of cause and effect, they will also be proportionate. It is easy, then, to show how ignorance, which keeps inactive the mind, i. e. the productive capital of a community, is friendly to poverty, and vice versa. With a view to awaken and enlighten public sentiment in Kentucky, we are about to organize a State Society, with county auxiliaries, and to make an experiment at applying the machinery of the various benevolent societies to the cause of education. By means of agents, newspapers, pamphlets, handbills, speeches, and conversation, I believe a great deal can be done in this way."

III. But if an enlightened public sentiment be so exceedingly important, the question naturally arises, how shall it be created? Mere law-making cannot do it.—In America,, the popular opinion must precede, or at least co-operate with legislation. The latter is invariably abortive when unsupported by the former. How shall the feelings of the people be aroused, and directed to the subject of Education. We answer, just as every day they are to fifty other subjects of far inferior consequence. How do the friends of Jackson or Clay, or Wolf or Ritner; how do the advocates of federalism or democracy, or the Tariff or Nullification; how do the supporters of our diversified charities, proceed when they wish to gain an influence over the public mind? They organize, and their object, (if practicable) is so on accomplished. In the present state of society, combination is the secret of all power, it imparts incalculable energy to human effort, and can only be resisted by counter combination. It was this powerful agent, working in the dark, which produced the French Revolution, and speedily shook a continent of kingdoms to its centre; and it is the same when purified and raised above all subterranean movements, and operating in open day, to which we must look to reform the world. Witness the splendid social engineering, which has of late been playing off its energies upon mankind, in the benevolent operations of the age. The ease and vigour with which it acts, are equally surprising and resistless? It reminds one of the fabled Giant—as he arose "fresh from his slumber of a thousand years."

"A new influence, (says a brilliant modern writer,) is arising which is sufficiently able to supply the deficiencies of Governments, in attaining the ends which they cannot reach, and in affording aids over which they have no control—the power of voluntary association. There is no object to which this power cannot adapt itself; no resources which it may not ultimately command; and by it, a few individuals, if the public mind is gradually prepared to favor them, may lay the foundations of undertakings which would have baffled the might of those who reared the pyramids. The power of voluntary association, though scarcely tried as yet, is of large promise, for the future; and when extended upon a great scale, is the influence most removed from the shock of accidents, and the decay of earthly things; renewing its youth with renewed gene-

rations, and becoming immortal through the perpetuity of the race.”\*

Such is the nature of the instrument which the Committee would recommend to the notice of the meeting as entirely susceptible of application to the interests of general Education. In several of the New England States, they rely upon taxation for the support of their system of public instruction; in Connecticut upon a large school fund; in New York, upon a fund and taxation united; in Kentucky, it would seem from the letter above quoted, that the friends of this cause, depend mainly upon the creation of a strong public sentiment, by means of voluntary associations. In the opinion of your Committee, the last is the most important method of promoting this great interest. It is not at all, however, incompatible with the other two. Perhaps the most successful experiment will be that in support of which the three modes of action shall be united. The Legislature of Pennsylvania, have recently passed an act for the support and improvement of common schools. It does not come within the province of your Committee to express an opinion respecting it. They believe, however, that a series of voluntary associations, for the purpose of bringing before the public, all useful information on the subject of Education, will facilitate the general adoption of the system if it be a good one, and its early modification if it be bad. The Committee, therefore, respectfully recommend the formation of *A Society for the promotion of public Education in the County of Bucks*. Let it be composed of men of all parties and denominations; let it confine itself merely to the awakening of the public mind to this important theme; and let all its meetings and transactions be open to the investigation of any one who desires to examine them.

If it be asked how such an association will operate for the attainment of its important object, it may be replied, that its members will be better able to determine this, as they convene from time to time, and become fully acquainted with the population on which they desire to act. It may be said, however, in a general way, that they will have at their disposal, all the ordinary instrumentalities by which men influence the public mind.

A society of this kind will, of course, have its Board of Managers. That Board may, perhaps, be divided into four Committees:—1st, A Committee on the Press—2d, On public meetings—3d, On Correspondence—4th, On Schools. The standard publications on the subject of Education, both in Europe and America, should be subscribed for, and placed at the service of these Committees.

The Committee on the Press may open an intercourse with the editors of the county; and if they think proper, of the Commonwealth at large. They may have them constantly supplied with such articles (original and selected,) as shall be adapted to their respec-

\* “These societies of free consent, are peculiarly of gothic growth, and flourished most in anglo-Saxon times; but now, though the two main objects of political society, the preservation of property and of persons, are admirably compassed by modern governments; yet, there are many objects conducive to the welfare of civil life, which are of too airy and volatile an essence to be overtaken by the combrous movement of society, but may be secured by voluntary association. The greatest individual man is every way circumscribed, and the limitations of this narrow and brief existence, pursue him in whatever he attempts. Numbers and succession can alone enable man to attain that which is great and perpetual; and an association of feeble minds, transmitting their purposes to ever-renewed successors, would at length be able to accomplish, what Alfred, or Aristotle, or Bacon, in the height of fortune and the maturity of genius, would not have been able to effect.”—[Douglas on the advancement of Society in Knowledge.]

tive publications, and will best serve to keep this fertile theme, in some one of its hundred aspects, constantly before the public eye. Short and spirited appeals on the benefits of knowledge, or the dangers of popular ignorance; occasional notices of what is doing throughout the world, for the intellectual improvement of society; interesting facts; anecdotes of self-educated men; discussions of the various systems of legislation on the subject; in short, whatever may impart instruction, or create excitement, respecting this primary concern, would come within the province of such a Committee. An operation of this kind, sustained for several successive years, would make the most torpid population upon earth, ultimately feel its influence.

The Committee on public meetings might call forth the eloquence of the community, in support of Education. They could procure able speakers from a distance, sometimes, to harrangue us. They would adopt measures, by which the inhabitants of every township should be induced, occasionally to convene for such discussions.

The Committee on Correspondence would communicate by letter, with those who are engaged in similar undertakings, in other States, and thus bring experience from abroad, to guide our little enterprise at home. They would probably address the friends of Education in other countries, and endeavor to induce them to institute an organization similar to their own. Such efforts might result, perhaps, in the establishment of a State Society, for the promotion of general Education, in Pennsylvania, composed of delegates from several County Institutions.

The Committee on Schools would ascertain the number of schools in the county, of teachers and pupils; the number of children not in school; the modes of teaching; the class books in use; in short, all the statistics of Education within their bounds. They would, also, perhaps, encourage teachers, in the different townships, to associate, for the advancement of their profession; for mutual improvement in the science of instruction;—for the reading and diffusion of standard works on the subject; and whatever else may be connected with the duties and the difficulties of their important, and often undervalued, though always responsible vocation.

Whatever may be thought of the details of the plan which your Committee have thus hastily sketched, there is one thing certain; if carried into practice, with even a moderate share of zeal and energy, almost any plan may serve to arouse the public from their indifference to this concern of surpassing moment; and in doing this, every thing that is really necessary, will be accomplished. We wish Pennsylvanians to feel that a sound education is one of the necessities of life amongst us, and that they cannot do without it. “*Good instruction is better than riches*,” was the motto that Penn, the illustrious founder of this Commonwealth, placed on the seal of a literary incorporation, granted by him 150 years ago. “The force, beauty, and truth of the assertion, (says Roberts Vaux,) has lost nothing by the lapse of time, nor by the experience of mankind.” “In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened,” said Washington. “A well instructed people, alone can be a permanently free people,” said Madison. “There is but one way of rendering a republican form of government durable, and that is by disseminating virtue and knowledge,” said Rush. “*Make a crusade against ignorance*,” said Jefferson.

These quotations exhibit the importance of the object which we have in view; but the last, especially points out with emphasis the manner in which that object must be attained. If there be a large number of voters in this State, who cannot spell out the Laws and Constitution, which their right of suffrage was given to support, and their numbers are constantly on the increase, it is high time that some effort be made to ar-

rest this evil. There are a thousand things in which we may safely differ. We may differ in religion, in politics, in philosophy; but, there is one thing in which, as Americans, we must all mostly cordially agree: and that is, in the importance of giving knowledge to the "SOVEREIGN PEOPLE." The illustrious dead have spoken upon this subject, and the distinguished living from every quarter of the Union, respond to their sentiments, and confirm their testimony? Let a trumpet then be sounded in the land. "A crusade against ignorance," is just the thing we want. Let the appeal be so loud and long as to reach every habitation. Let the North hear it; let the South receive the call; let the ocean tell it to the mountains, and the mountains echo it to the distant forests, until it shall sound throughout every log hut in the western wilderness. The mother by the fire-side will hear it, and resolve that her infant in the cradle shall be well instructed; the father laboring in the fields will hear it, and the determination will be formed in his secret soul, that the lad who toils at his elbow, shall be saved from the burning infamy of ignorance; aye, and even our political partizans, shall pause by common consent, amidst the strife of parties, to listen to this finest note of Freedom, and do homage to the sentiment of the sage of Monticello. An organized "crusade against Ignorance" is the only enterprise which can redeem this nation. The undertaking which we propose to you, fellow citizens, is by no means a novel one. There are many County and State Societies in the Union, for the promotion of this cause. Already have they produced a wide and salutary impression. Argument, persuasion, and patriotic intreaties, are the instruments which we propose to use. The weapons of this warfare are not carnal, but spiritual, and mighty to the pulling down of strong holds; and amongst the rest, the strong holds behind which this great enemy of republics has been entrenched. Already we may hear the battle-axe thundering at the portals of a besieged City. The towers thereof are counted. In a few years, the *banner of Universal Education*, shall wave over all the fastnesses that are occupied by Freedom's sunliest foe—and be himself vanquished and disgraced, and blaspheming the brighter day that has dawned upon our country, shall retire, (amidst universal execrations) to hide himself from the light, in the dens and dark places of society. Yes, and as that beautiful banner shall float in an atmosphere which is breathed by enlightened freemen, there will be revealed to every eye from its graceful folds which the breeze "half conceals, half discloses" the injunction of the virgin Statesman, which we recommend as the motto of your present enterprise—"make a crusade against Ignorance."

Patriots, Philanthropists and Christians, who amongst you will refuse to enlist for this noble service? Let the aged lend us their experience, and the young their energy; let the men of influence give their patronage, and the men of intellect their talents; let those who can write appear in our public papers, and those who can speak arise in our popular assemblies. All, even the least amongst us may do something to promote the cause of Universal Education. In these peaceful wars it will not be inconsistent with the lovely timidity of the sex, even for our women to engage; and our very children as they enjoy and illustrate the benefits of a more attractive system of instruction, shall help us to gain this bloodless victory.

Come then, fellow citizens, let us *organize*, after the example that has been set to us, in other places. Many warm hearts, clear heads, and strong hands, in different sections of the Union, are engaged in this noble work. In public and in private, from the rostrum and the press, again and again, let this subject be brought before the Nation. Such a combined influence must, ultimately, tell with power upon the duties of our favored land. And then, when we, who are now on the stage of action, shall pass away, another generation, more enlightened than their fathers were, shall stand

up, like a wall of fire, to encircle the Constitution, and to save the Country.—*Buck's County Intelligencer.*

OBSERVATIONS MADE BY ALFRED CREIGH,  
of Carlisle:—Commencing on the 1st February 1833, and  
ending the 31st day of December, 1833:—  
(Concluded from page 51.)

## OCTOBER.

Days of the month,	9 o'clock.	12 o'clock.	3 o'clock.	Prevailing Wind.	Remarks.
1	60°	63°	64°	NE	Rain
2	63	65	70	W	Clear
3	60	63	65	"	"
4	59	61	62	NW	"
5	58	62	63	"	"
6	59	61	63	SE	Cloudy
7	59	61	61	"	Rain
8	59	63	65	W	Clear
9	63	67	69	W	"
10	60	62	62	N	"
11	51	57	58	W	"
12	50	54	55	E	Heavy rain
13	53	57	60	W	Clear
14	56	60	63	NW	"
15	57	62	63	N	"
16	62	65	67	SE	Cloudy
17	64	68	70	"	Rain
18	52	54	60	W	Clear
19	50	53	54	N	"
20	47	49	50	E	Rain
21	46	48	48	NE	"
22	48	51	53	NW	Clear
23	46	53	58	W	"
24	50	54	55	W	"
25	52	55	60	WSW	"
26	50	52	55	W	" & windy
27	49	51	53	SE	Cloudy
28	50	52	52	N	"
29	41	43	41	NW	Clear
30	40	41	40	W	"
31	39	42	45	W	"

## NOVEMBER.

1	40	45°	48	W	Clear
2	52	58	62	W	"
3	50	55	59	"	"
4	42	43	44	"	Cloudy
5	38	40	43	N	"
6	47	49	50	"	"
7	48	52	58	W	Clear
8	51	55	57	N	" & cloud.
9	57	58	69	N NE	Cloudy & ra.
10	56	62	65	W	Clear
11	55	60	62	W	"
12	55	59	63	W	"
13	49	52	55	"	"
14	42	52	57	"	"
15	42	45	47	"	Cloudy
16	39	41	40	SE	Rain
17	38	40	40	WSW	Cloudy
18	39	40	41	W	Clear
19	37	40	40	"	" & cold
20	34	37	42	"	"
21	33	37	40	W	Cloudy
22	40	45	48	W	Clear
23	37	42	50	"	Cloudy
24	38	40	42	W	Drift of sno.
25	40	40	40	"	Cloudy
26	40	43	43	W	Clear
27	37	39	41	N	"
28	42	46	49	W	Cloudy
29	38	42	43	SE	Rain
30	42	42	43	"	Rain

## DECEMBER.

Days of the Month.	9 o'clock.	12 o'clock.	3 o'clock.	Prevailing Wind.	Remarks.
1	42°	44°	47°	N	Cloudy
2	43	45	45	"	" rain
3	40	41	40	"	Rain
4	40	41	42	N NE	
5	40	42	44	"	Clear
6	42	46	49	W	Cloudy, snow
7	38	37	37	NE	Snow 4 inches
8	37	36	36	"	Clear
9	38	40	42	N	"
10	39	41	45	W	"
11	40	42	44	"	"
12	33	35	38	"	"
13	32	36	39	NE	Cloudy
14	28	29	29	"	Snow 6 inches
15	32	33	33	"	Cloudy
16	33	35	35	"	Sleet, high wind
17	35	35	36	E	Cloudy
18	39	40	40	NE	Clear
19	38	41	40	N	"
20	39	43	44	N NE	Cloudy
21	26	30	33	NE	"
22	36	40	39	N	"
23	36	38	39	NE	Cloudy, with snow
24	37	38	38	W	"
25	33	35	34	NW	Clear
26	37	40	40	"	High wind
27	35	38	38	W	Clear
28	30	35	35	W	Cold
29	34	37	43	NW	Clear
30	35	36	36	SE	A little snow
31	34	35	37	SE	" "

## LAND TITLES.

(Continued from page 58.)

This decision, however, had no tendency to settle the controversy subsisting between the warrant holders and the settlers. Petitions were presented to the legislature by the settlers, requesting their interposition. These were encountered by memorials from the companies. But on the 2d of April, 1802, an act was passed, entitled "An act to settle the controversies arising from contending claims to lands, within that part of the territory of this commonwealth, north and west of the river Ohio and Allegheny, and Conewango creek, (chap. 2277.)"

The preamble recites at large the 9th section of the act of 3d of April, 1792, "That applications were making for new warrants, in cases, where, in the opinion of the applicants, the original warrantees are barred from claiming title by their own default, in not complying with the conditions required in the said section, &c., with other recitals, which will appear in the case which follows.

The first section then directs the judges of the supreme court to meet together within three months from the 1st of April, and devise a form of action for trying and determining certain proposed questions relative to these disputed titles, and transmit the same to the governor, whose duty it was made, with the assistance of the Attorney General, to carry the same into effect without delay.

Section 2, prescribed the manner in which the said questions were to be decided. And, sect 3 directed that the judges should devise and direct, in what manner, and under what circumstances, parties should be admitted to the suit, and what notice should be given respecting the same, &c., and that they should certify the ver-

dict and judgment to the governor, previous to the meeting of the next legislature.

Sect. 4. And in order to prevent the confusion that would arise from issuing different warrants for the same land, and to prevent law suits in future respecting grants from the Land Office under the act of 3d of April, 1792, the secretary of the Land Office was prohibited from granting any new warrant for land which he had reason to believe had been already taken up under a former warrant, but in all such cases he shall cause a duplicate copy of the application to be made, on which he shall write his name, with the day and year in which it was presented, and file the original in his office, and deliver the copy to the party applying. Provided, that on every application so to be made and filed, shall be certified, on the oath or affirmation of one disinterested witness, that the person making such application, or in whose behalf it is made, is in actual possession of the land applied for, and such certificate shall mention also the time when such possession was taken; and the application so filed, shall be entitled to the same force and effect, and the same priority in granting warrants to actual settlers, as though the warrants had been granted at the time when the applications were filed; and should the decision of the court and jury, at the trial aforesaid, be in favor of the claims of the actual settlers, the secretary of the Land Office shall proceed to grant the warrants, upon the purchase money being paid, according to the priority of the applications filed in his office.

The proposed questions stated in the act, are as follows:

1st. "Are warrants heretofore granted under the act of 3d of April, 1792, valid and effectual in law against this commonwealth, so as to bar this commonwealth from granting the same land to other applicants under the act aforesaid, in cases where the warrantees have not fully and fairly complied with the conditions of settlement, improvement and residence, required by the said act, at any time before the date of the said warrants respectively, or within two years after?"

2d. "Are the titles that have issued from the Land Office, under the act aforesaid; whether by warrant or patent, good and effectual in law against this commonwealth, or any person claiming under the act aforesaid, in cases where such titles have issued on the authority, and have been grounded upon the certificates of two justices of the peace, usually called prevention certificates, without any other evidence being given of the nature and circumstances of such prevention, whereby, as is alleged, the conditions of settlement, improvement and residence, required by the said act, could not be complied with?"

The Holland company declined this special jurisdiction. In their reasons delivered to the judges, they said they could not approve of the terms of the preamble of the act, by which the legislature had undertaken to declare the meaning and construction of the original contract, (the very point in controversy;) nor could they admit the right or propriety of dictating a new, and perhaps, unconstitutional mode of settling a judicial question, without the assent of all the parties in interest.

The merits of the case, they say, evidently involve the following considerations; 1st. Whether the company have complied with the condition of the 9th section of the act of April, 1792? 2d. Whether the reasons assigned for a non-compliance with the condition, bring their case within the proviso? 3d. Whether the proviso operates upon cases that are brought within its terms, to discharge the condition entirely, or only to enlarge the time for performing it? 4th. Whether the company have so persisted in their endeavors to perform the condition, as to be still within the benefit of the proviso? And, 5th. Whether the government, by prescribing the evidence, on which patents had actually issued, in cases brought within the proviso, could now

take advantage of the forfeiture, for a supposed non-compliance with the original condition?

But, in their opinion, the questions proposed by the legislature, excluded an investigation and decision, upon any other point than the following: "1st. Whether if the Holland company have not performed the condition, on which the warrants originally issued, within two years, though the residence could not be completed till the expiration of five years, the state is barred from granting the same lands to other applicants? And 2d, whether patents having issued on the evidence of prevention certificates alone, they are not void, so as to authorize the state to sell the same land to other purchasers?"

On the first of these points, they observed, that it had never been contended, that the Holland company had performed the condition within two years; but only that the condition was discharged, or suspended by the operation of the proviso, in the facts of their case; particularly the fact, that an Indian war existed for several years; beyond the term of two years specified in the act of Assembly. And, on the second point, it was sufficient to say, that although the prevention certificate was the evidence prescribed by the public officers, and ought, therefore, to be binding on the government, yet that even waiving that objection, the patentees would be deprived of their land, when other satisfactory, and legal evidence, was, and is in their power, to prove the circumstances which entitled them to patents.

They therefore declined becoming a party to the proposed suit, because a decision on the two abstract questions, would still leave untouched, and undecided, the great and essential part of the controversy.

The judges, having devised and published the form of a feigned issue, on a wager to try the two questions proposed in the act; having given public notice, that all parties, interested in the issue, would be heard at the trial; and having settled and prescribed the other necessary proceedings, the court met on the 25th of November, 1802. (The chief justice not attending,) at Sunbury, when a jury was impanelled, and sworn. No counsel appeared for the grantees. The case is reported in 4 Dallas, 237. By the name of "Attorney General v. the grantees under the act of April, 1792. On the 26th of November, Yeates, J. who presided, delivered the following charge to the jury.

That the decision of the court and jury, on the present feigned issue, should "settle the controversies arising from contending claims to lands north and west of the rivers Ohio, and Allegheny, and Conewango creek," is an event devoutly to be wished for, by every good citizen. "It is indispensably necessary that the peace of that part of the state should be preserved, and complete justice done to all parties interested, as effectually as possible." (Preamble to Act of 1802.)

We have no hesitation in declaring, that we are not without our fears, that the good intentions of the legislature, expressed in the law under which we now sit, will not be effected. We hope we shall be happy enough to acknowledge our mistake hereafter.

It is obvious, that the validity of the claims of the warrant holders, as well as of the actual settlers, must depend upon the true and correct construction of the act of 3d of April, 1792, considered as a solemn contract between the commonwealth and each individual.

The circumstances attendant on each particular case, may vary the general legal conclusion in many instances.

We proceed to the discharge of the duties enjoined on us by the late act.

The first question proposed to our consideration, is as follows: (see it before stated.)

It will be proper here to observe, that on the motion for a mandamus, to the late secretary of the land office, at the instance of the Holland company; the members of the court, after great consideration of the subject, were divided in their opinions.

The chief justice seemed to be of opinion, that if the warrantee was "by force of arms of the enemies of the United States, prevented from making an actual settlement, as described in the act, or was driven therefrom, and should persist in his endeavors to make such actual settlement thereafter." "It would amount to a performance of the condition in law. Two of us thought, that in all events, except the death of the party, the settlement and residence contemplated by the act, should precede the vesting of the complete and absolute estate, and that "every warrant holder, &c." (reciting the 9th section,) to this opinion Judge Breckenridge subscribes.

It would ill become us to say, which of these constructions is intitled to a preference. It is true that in the preamble of the act of the 2d of April, 1802, it is expressed, that "it appears from the act aforesaid, (3d of April, 1792,) that the commonwealth regarded a full compliance with these conditions of settlement, improvement and residence, as an indispensable part of the purchase, or consideration of the land itself." But it is equally certain, that the true test of title to the lands in question must be resolved into the legitimate meaning of the act of 1792, extracted *ex vicribus suis*, independent of any legislative exposition thereof. I adhere to the opinion which I formerly delivered in bank; yet, if a different interpretation of the law shall be made by courts of a competent jurisdiction in the dernier resort, I shall be bound to acquiesce, though I may not be able to change my sentiments. If the meaning of the first question be, are titles under warrants, issued under the law of 3d of April, 1792, for lands north and west of the rivers Ohio and Allegheny, and Conewango creek, good and available against the commonwealth, so as to bar the granting of the same land to other applicants, where the warrantees have not fully and fairly complied with the conditions of settlement improvement and residence, required by the law, at any time before, or within two years after the dates of the respective warrants, in time of profound peace, when they were not prevented from making such actual settlement by force of arms of the enemies of the United States, or reasonable and well grounded fear of the enemies of the United States? The answer is ready in the language of the acts before us, and can admit of no hesitation. (Reciting the 9th section of the act of April, 1792, and the above cited part of the preamble of the act of 1802.)

But if the true meaning of the question be, whether under all given, or supposed, circumstances of peace or war, of times of perfect tranquility, or imminent danger, such warrants are not *ipso facto* void and dead in law, we are constrained to say, that our minds refuse assent to the general affirmative of the proposition.

We will exemplify our ideas on this subject. Put the case, that a warrant taken out in 1792, calls for an island, or describes certain land, with accuracy and precision, by the course of waters, or other natural boundaries, distant from any military post, and that the warrantee, after evidencing the fullest intentions of making an actual settlement on the lands applied for, by all the necessary preparation of provisions, implements of husbandry, labourers, cattle, &c. cannot, with any degree of personal safety, seat himself on the lands within two years after the date of the warrant, and by reason of the just terror of savage hostilities? Will not the proviso in the 9th section of the act of 3d of April, 1792, excuse the temporary non-performance of an act, rendered highly dangerous, if not absolutely impracticable, by imperious circumstances, over which he had no control?

Or, suppose another warrant, depending in point of description, on other leading warrants, which the district surveyor, either from the state of the country, the hurry of the business of his office, or other causes, could not survey until the two years were nearly expired, and the depredations of the Indians should intervene

for the residue of the term; will not this, also suspend the operation of the forfeiture? Nothing can be clearer to us, than that the terms of the proviso embrace and aid such cases; and independent of the strong expressions made use of, we should require strong proof to satisfy our minds, that the legislature could possibly mean to make a wanton sacrifice of the lives of her citizens.

It is said in the books, that conditions rendered impossible by the act of God, are void. Salk. 170, 2 Co. 79, b. Co. Lit. 206, a. 290, b. 1 Roll. abr. 449, 1. 50, 1 Fonbl. 199.

But conditions precedent must be strictly performed to make the estate vest, and though become impossible, even by the act of God, the estate will not vest; aliter of conditions subsequent. 12 Mod. 183. Co. Lit. 218, a. 2 Vern 339. 1 Chan. ca. 129, 138. Salk 231. 1 Vern. 183. 4 Mod. 66. We desire to be understood to mean, that the "prevention by force of arms of the enemies of the United States," does not in our idea, absolutely dispense with, and annul the conditions of actual settlement, improvement, and residence, but that it suspends the forfeiture by protracting the limited periods. Still the conditions must be performed *cy-pres*, whenever the real terror arising from the enemy has subsided, and he shall honestly persist in his endeavors to make such actual settlement, improvement and residence, until the conditions are fairly and fully complied with.

Other instances may be supposed, wherein the principles of prevention may effectually be applicable. If a person, under the pretence of being an actual settler, shall seat himself on lands, previously warranted and surveyed within the period allowed, under a fair construction of the law, to the warrantee, for the making his settlement, withhold the possession, and obstruct him from making his settlement, he should derive no benefit from this unlawful act. Co. Lit. 206 Dougl. 661. 1 Roll's abr. 454, pl. 8. Godb. 76. 5 Vin. 246, pl. 25.

We trust that we have said enough to convey our sentiments on the first point. Our answer to the question, proposed, is, that such warrants may, or may not, be valid and effectual in law against the commonwealth, according to the several times and existing facts accompanying such warrants. The result of our opinion, founded on our best consideration of the matter is, that every case must depend on, and be governed by, its own peculiar circumstances.

The second question for decision is, "Are the titles that have issued. &c?" (as before stated.)

It was stated in evidence on the motion for a mandamus, and proved on this trial, that the Board of Property being desirous of settling a formal mode of certificate, on which patents might issue for lands north and west, &c. required the opinion of the Attorney General thereon; and on due consideration, a form was afterwards adopted on the 21st of December, 1797, which was ordered to be published in the Pittsburgh Gazette, and patents issued of course, on the prescribed form being complied with.

The received opinion of the supreme Executive Magistrate, the Attorney General, the Board of Property, and of a respectable part of the bar (whose sentiments on legal questions will always have great and deserved weight,) at that day, certainly was, that if a warrant holder was prevented by force of arms of the enemies of the United States, from making his actual settlement, within two years after the date of his warrant, and afterwards persisted in his endeavors to make such settlement, that the condition was extinguished and gone. Persisting in endeavors, was construed to mean something; attempts, essays, &c.; but that did not imply absolute success, or accomplishment of the objects intended to be effected. By some it was thought that the endeavors were only to be commensurate as to the time of making the actual settlement, and were

tantamount, and should avail the parties "in the same manner as if the actual settlements had been made and continued."

The decisions of the court in Morris's lessee v. Neighman and others at Pittsburg, May, 1799, tended to make the former opinion questionable; and two of the justices of the supreme court, adopted a different doctrine, in their judgment between the Holland company and Tench Coxie.

In the argument in that case; it was insisted by the counsel for the plaintiffs, that the Board of Property in their resolves, and the governor, by his patent, represented the commonwealth, *pro hac vice*; and that interests vested under them, which could not afterwards be defeated.

We cannot subscribe hereto. If the conditions of settlement, improvement, and residence, are indispensable at all events; they become so by an act of the different branches of the legislature. The governor who has a qualified negative in the passing of laws, cannot dispense with their injunctions; and it cannot be said, that this case falls within the meaning of the 9th section of the second article of the constitution: "The governor shall have power to remit fines and forfeitures, and to grant reprieves and pardons, except in case of impeachment." It relates merely to penalties consequent on public offences. Nor can it be pretended that the Board of Property, by any act whatever of their own, can derogate from the binding force of law. But the fact is, an intention of dispensing with the law of 1792, cannot with any degree of justice, be ascribed to the governor, or Board of Property for the time being. They considered themselves, in their different functions, virtually discharging their respective duties, in carrying the act into execution, according to the generally received opinion of the day; they never intended to purge a forfeiture, if it had really accrued, nor to excuse the non-performance of a condition, if it had not been complied with; agreeably to the public will, expressed in a legislative contract.

The rule of law is thus laid down in England. A false, or partial suggestion by the grantee of the king, to the king's prejudice, whereby he is deceived, will make the grant of the king void. Hob. 229. Cro. El. 632. Yelv. 48. 1 Co. 44. a. 51. b. 3 Leon. 5. 2 Hawk. 398. 1 Black. 226. But where the words are the words of the king, and it appears he has only mistaken the law, there he shall not be said to be so deceived to the avoidance of the grant. Per sir Samuel Eyre, J. Ld. Raym. 50. 6 Co. 55 b. 56 b. accord. But if any of the lands concerning which the question arises, became forfeited by the omission of certain acts enjoined on the warrant holders, they do not escheat to the governor for the time being, for his benefit, nor can he be prejudiced, as governor, by any grant thereof, they become vested in the whole body of the citizens, as the property of the commonwealth, subject to the disposition of the laws.

We are decidedly of opinion that the patents, and the prevention certificates recited in the patents, are not conclusive evidence against this commonwealth, or any person claiming under the act of 3d of April, 1792, of the patentees having performed the conditions enjoined on them, although they have pursued the form prescribed by the land officers. But we, also, think, that the circumstance of recital of such certificates, will not *ipso facto* avoid and nullify the patent, if the actual settlement, improvement and residence, pointed out by the law, can be established by other proof.

We must repeat on this head, what we asserted on the former, that every case must be governed by its own peculiar circumstances. Until the facts really existing, as to each tract of land, are ascertained with accuracy, the legal conclusion cannot be drawn with any degree of correctness. *Ex facto uritur jus*.

2d. Here we feel ourselves irresistibly impelled to mention a difficulty, which strikes our minds forcibly,

Our reflections on the subject have led us to ask ourselves this question on our pillows. What would a wise, just, and independent chancellor decree on the last question? Executory contracts are the peculiar objects of chancery jurisdiction, and can be specifically enforced by chancery alone. Equity forms a part of our law, says the late chief justice, truly. 1 Dallas, 213.

If it had appeared to such a chancellor, by the pleadings, or other proofs, that the purchase money had been fully paid to the government by the individual for a tract of land, under the law of 3d of April, 1792; that times of difficulty and danger had intervened, that sums of money had been expended to effect an actual settlement, improvement and residence, which had not been accomplished fully; that by means of an unintentional mistake on the part of the state officers, in granting him his patent, (the officers not led to that mistake by any species of fraud or deception on the part of the grantee,) he had been led into an error, and lulled into a confidence, that the conditions of the grant had been legally complied with, and, therefore, he had remitted in his endeavors therein; would not he think that under all these circumstances, thus combined, equity should interpose and mitigate the rigid law of forfeiture, by protracting the limited periods? And would it not be an additional ground of equity, that the political state of the country has materially changed since 1792, by a surrender of the western posts to the government of the United States, and peace with the Indian nations, both which render an immediate settlement of the frontiers in some measure, less necessary than heretofore.

But it is not submitted to us to draw the line of property to these lands, they must be left to the cool and temperate decisions of others, before whom the questions of title may be agitated. We are confined to the wager on the matters before us; and on both questions we have given you our dispassionate sentiments, formed on due reflection, according to the best of our judgment. We are interested merely as common citizens, whose safety and happiness is involved in a due administration of the laws. We profess, and feel, an ardent desire, that peace and tranquility should be preserved, to the most remote inhabitants of this commonwealth.

The jury found a general verdict in favor of the Attorney general, on the feigned issue, and judgment was rendered in these words. "Whereupon it is considered by the court here, that the said Attorney General do recover of the said grantees, his damages, costs and charges aforesaid, amounting in the whole to two hundred dollars and six cents, and the court accordingly render judgment thereon for the plaintiff, subject to the proviso in the 9th section of the act of Assembly, passed the third day of April, 1792.

(To be continued.)

From the Wyoming Republican.

#### MARCH OF SULLIVAN'S ARMY IN 1779.

A few years since, Thomas Gordon, Esq. of Trenton, N. J. politely furnished the editor of this paper with a Journal kept by a Sergeant-Major in Sullivan's Regiment, during its march to the valley of Wyoming, and through the Susquehanna country, and a part of the State of New York, to the relief of the settlers, after the massacre at Wyoming. Believing it would be interesting to most, and perhaps all our readers, we have thought proper to publish the Journal. It will take the reader back more than 50 years, and enable him to form a faint idea of the situation of the country then. To such as were with Sullivan, who are still living, the Journal will be particularly interesting.

We omit no part of the Journal, as the whole together forms an interesting relic of days of blood shed and suffering in this section of the country. We have however, inserted between brackets the names of certain

places, where the writer spelled them differently, from the way they are spelled now.

"A Journal of the marches, &c. completed by the 3d Jersey Regiment, and the rest of the Troops under the command of Major Sullivan, in the Western Expedition.

May 17, 1779. At 8 o'clock the 3d Jersey Regiment marched for Samptown.

18. To Boundbrook; the weather wet, detained them there until the 23d. In the interim every man received two pair overalls each, and every one that had no blankets, received one.

23d. Marched to Tinbrooks Tavern.

24th. Marched to Pittstown, where they received tents for the Regiment.

25th. Marched to Johnson's Mills.

26th. Marched to Easton where they joined 1st Jersey Regiment, two New Hampshire Regiments, and Colonel Proctor's Artillery. Immediately on their arrival, a man of Col. Dayton's company, being disguised with liquor, unfortunately drowned himself in the Delaware river. A few days after arrived here the 2d Jersey Regiment. One Regiment of New Hampshire Troops marched for Wyoming in order to prepare the roads for the Artillery and wagons, as also did the 1st Jersey Regiment.

Easton, June 13. Three soldiers belonging to the Pennsylvania Regiment commanded by Col. Hubley, were executed for murdering an inhabitant at this place. The whole of the Troops on the ground were present at this melancholy occasion.

14. Was fired a feu de joy at evening on account of a victory obtained over the enemy in South Carolina. About this time were taken two men, one of whom formerly had been a Lieut. in the Militia, and was confined for enticing a number of the Artillery to desert to the enemy. A General Court Martial, whereof Brigadier General Maxwell was president, found them guilty, and sentenced them to death.

18. The whole of the aforementioned Troops, warned by the firing of a Cannon, marched together with the pack horses, and baggage waggons at 4 o'clock in the morning on their way to Wyoming. The roads for this day's march were good—encamped at Helliard's Tavern, distant 11 miles from Easton.

19th. Marched to Larney's Tavern or Pokanose (Pocano) point.

20th. To Chouder Camp.

21st. To Fatigue Camp.

22. To Sullivan's Camp or Great Meadows.

23d. To Wyoming, situate on the East Branch of Susquehanna. On the East side has been formerly a place of strength, near 400 families having lived here before these troubles began. The town formerly, has been regularly laid out, and the houses well built, but is now destroyed by the Savages and Tories, when the battle was fought here between the two Butlers, last fall, when the enemy killed 300 of the inhabitants, burnt the Town and Fort, and left about 230 women widows. The land here is excellent, and comprehends vast mines of Coal, Pewter, Lead, Copperas, &c. The river affords abundance of fish of various kinds, and excellent. Here we joined the German Battalion, one York Regiment, Capt. Short's Company, Capt. Spalding's Free Corps, composed of the inhabitants, and also the 4th Jersey Regiment.

July 1st. This day was executed one of the aforementioned traitors.

12th. Three friendly Indians and three soldiers were despatched from here up the river to reconnoiter—they proceeded as far as Wyalusing, 56 miles distant, and returned without any thing material.

17th. Received the agreeable news of Gen. Wayne having surprised and taken 600 of the enemy at Stony Point, with also their baggage and artillery.

24th. Arrived a fleet consisting of 134 Boats loaded with provisions of all kinds; on the arrival, they fixed 13 Cannon, and were saluted by the like number from the Garrison.

30th. A party of 600 men was employed from 6 o'clock in the morning until 9 in the evening, loading the Boats and Pack horses.

31st. At 9 o'clock the army began their march for Teago (Tioga.) Col. Proctor's Regiment of Artillery, and a detachment from the whole army, manned the Boats. Col. Proctor commanded the fleet. The army marched to Lackawanna, distant nine miles from Wyoming, (Wilkes Barre.) This place contains 200 acres of excellent level land, and beautifully situated, having a fine creek bordering on the East side of the river in front, and a large mountain in the rear, which forms this place a triangular form.

Aug. 1st. At 3 o'clock in the afternoon, marched for Wylutanunk—on the road passed a fine cataraet, as handsome as ever I saw in Europe, the water falling near 300 feet. From this place we had a very bad road for upwards of 3 miles. It was 10 o'clock at night before the troops arrived here, having to pass the most of the way a very narrow defile, the Pack horses not arriving until next morning, having several of their packs lost, consisting of liquors, ammunition, and provisions.

2d. Lay by—drew provisions—washed our linen. Distant from Lackawanna 7 miles.

3d. Marched for Hunck Hannuck, (Tunkhannock,) distant 14 miles, the road in general very good, but exceeding steep and mountainous. Halted in a valley 4 miles from Hunck Hannuck. Here refreshed, then proceeded to the aforementioned place, and encamped.

4th. Marched for Van De Lyp's farms—for one and a half miles the road bordering on the river, affording a fine land-scape, the opposite side being formerly a large farm, extending for several miles, and called Catchakany plains. Then proceeded up a high and steep mountain, the road so narrow that not more than one man at a time could ascend it. One of the Commissaries horses fell down this mountain and broke his neck, and several packs lost. The troops halted, after crossing a creek, refreshed themselves. At the mouth of this creek is a cavity in a rock, also a small flat bordering on the creek. Here it is said a man and his family lived two years before these troublesome times began. From here we proceeded for the aforementioned place, which is beautifully situated on the border of the river, also very fine farms, but evacuated and destroyed by the Savages. Here is also a very fine Walnut Bottom, one of those trees being measured was found to be 14 feet through.

5th. Marched for Wyalusing, distant 14 miles, and crossed Tuscarora creek, a fine plantation being formerly here. From thence proceeded forward. A soldier falling sick of the Falling sickness, died here, and one of Col. Proctor's artillery was drowned. Proceeding up the river, passed through a very fine Buttonwood bottom, some of them measuring 14½ feet through. Arrived at the aforementioned place about sunset, where a Sergeant of the 2d Jersey Regiment died suddenly. This place is most beautifully situated, and fine pasture for cattle, also some orchards, and has been inhabited by 50 families, mostly of the people called Dunkards—they have been obliged to fly, and their habitations burnt.

6th. Halted to refresh the cattle, draw provisions, and washed our linen.

7th. Detained here this day on account of rain—in the evening all the troops on board the boats were reviewed, and the command given to Col. Courland and Maj. Conway. Also orders for deducting 1 per man per day.

8th. Marched for Standing Stone Bottom, a very pleasant place and a large plantation.

9th. Marched for Queen Hester's Plains. Had a very tedious and difficult march—the distance 14 miles. One Defile we passed near one mile and a half in length, where one man had scarce room enough to walk. Three cattle fell from this defile near 120 yards perpendicular, and were killed. Several pack-horses were lost. This defile bordered close to the river.—Towards 6 o'clock in the evening reached the Plains and encamped.

10th. Lay by on account of rain.

11th. This morning marched for Teago (Tioga) distant 4 miles—the country level and fine land. Within half a mile of Teago we crossed the Susquehanna, hanging our cartouch boxes on our bayonets, and wading the river up to our armpits. Previous to the troops crossing, Col. Proctor landed some of his artillery, on the west side of the river, and fired a few shots into the woods on the east side in order to annoy the enemy if any should be there. The army then proceeded to cross and landed on a beautiful meadow—halted for a quarter of an hour, then across the Teago river and encamped. Capt. Cummings of the 2d Jersey Regiment was despatched towards Chemung with a small party to reconnoitre the enemy, who we were informed were strong at this point. The above party returned, with intelligence of the enemy abandoning Chemung in a very great confusion.

12th. General orders were immediately issued that all the army that were off duty and able, would hold themselves in readiness to march at a moment's warning. At 8 o'clock in the evening the army began their march and marched all night at a very slow rate.

13th. At day break found that the army were 5 miles from Chemung, detained by 2 very narrow defiles they had to pass. The morning being very foggy favoured our design, but on arrival found the town abandoned. Gen. Poor's Brigade formed on a flat on the west side of the Teago—Gen. Maxwell's on the east side, set fire to and destroyed the town. Gen. Hand with the light troops marched forward for two miles when a party of the enemy which lay in ambush fired on the advance guard. This was returned so briskly that the enemy retreated with great precipitation, carrying off with them their killed and wounded, so that their loss could not be ascertained. The loss which we sustained was seven killed and nine wounded. Among the wounded are one Captain and one Adjutant. The troops then began to destroy the grain, &c. At 2 o'clock began our march backwards to Teago. Chemung is pleasantly situated 12 miles from Teago, on the bank of the aforesaid river, their corn, &c. raised on the opposite side on a very rich flat, and produces a very large crop of corn, beans, &c.

14th. Nothing material.

15th. A Corporal and four men being sent to collect cattle, on their return was fired upon by a party of the Savages, who killed and scalped one, wounded another. Though all possible means were used to come up with them, yet they made their escape. A party from each Brigade was ordered to build block houses on a Peninsula of the Teago and Susquehanna.

16. A command of 800 men was despatched up the river Susquehanna to escort Gen. Clinton's Brigade to Head Quarters, whereof Brigadier Gen. Poor had the command.

17. The like accident happened as did on the 15th.

18. Nothing material.

19. This morning at 5 o'clock 9 men detached from Gen. Clinton's Brigade, arrived here. They say they left the Brigade 22 miles distant, making the best of their way down. The remainder of this day and the preceding night has been one continual rain which detained General Clinton's army from joining the main body as soon as was expected.

20 & 21. Nothing material.

22. This day at 12 o'clock arrived Brigadier General Clinton and his Brigade, also 200 Batteaus. Gen. Poor met them 40 miles from here, and escorted them in, his party being greatly fatigued.

23. A Captain of the New Hampshire Troops was killed, and a soldier wounded by accident.

24. and 25. Several Tents cut up to make bags for the more conveniency of carrying Flour.

26. Marched this day on the road to Chemung, and encamped about 3 miles from Teagoga, leaving Colonel Shreeve of the 2d Jersey Regiment with 200 men, properly officered, to Garrison the Peninsula; all the spare baggage, the sick, and women, were left at this port, and two 6 pounders.

27. This morning, the roads very bad, the ammunition wagons oversetting, retarded the march very much, also the field pieces and pack horses were a great obstruction; it was 12 o'clock at night before the whole of the army came to the encampment, the distance only 7 miles from the last encampment, and within 2 miles of Chemung.

28. This morning the troops went to destroying the corn with which this encampment abounds. At two o'clock the army marched for Chemung, and arrived there about sunset, and that with difficulty, having to cross the Teagoga twice in marching about one mile. Chemung contained about 40 houses well built.

29. At 8 o'clock began the march, and continued for 4 miles, when the Rifle Corps were attacked by the enemy who had built a breast work, thinking to destroy our army at their crossing a narrow defile in front of their works. The left column stood to their arms, while the right column moved forward in order to gain the heights and if possible to cut off their retreat. The Cannon began, and the shells were so freely distributed among the Savage and Tory brood that they were obliged to fly, which they did with such precipitation, that Gen. Poor had not time to effect his purpose. The enemy then formed on a steep hill close to Newtown. Thither Gen. Poor followed, his men climbing the hill with charged bayonets, regardless of the enemy's fire, which was poured on them like hail; the enemy at last fled, leaving their dead on the ground to the amount of nine Indians; we took two prisoners, one white man and one negro. The army then encamped at Newtown. Newtown is six miles from Chemung. The enemy had rendezvoused here for eight weeks to the amount of 1500, and was put to the allowance of seven ears of corn per day for each man for the last eight days, and no meat. Here had been planted corn, &c. for the purpose of carrying on their wanton depredations against our frontiers. About twenty of Gen. Poor's Brigade was wounded in mounting the hill. This town is newly built and pleasantly situated on the Teagoga, with a high hill in rear of it, and a beautiful falls on the opposite side of the river.

30. This day was spent in destroying Corn, &c. and sending heavy baggage away, viz. 2 Howitz, one three pounder, and the men who were wounded, with the ammunition waggon, to the garrison at Teagoga.

31. Marched for ten miles and encamped near the Cauga Creek. The left column marched through and set fire to a settlement of eight houses. About two miles from Newtown, passed several defiles and steep hills.

Crossed the Cauga Creek and halted in a town called Knawaholee, very pleasantly situated on a peninsula of the Teagoga and Cauga. From here the third Jersey Regiment was despatched up the Teagoga to destroy what crops of corn, &c. they could find, also to look out if the enemy had or might be there as the General was informed by the prisoners that they moved all their sick and wounded in boats up the river. They proceeded up the river for eight miles, destroyed the corn, &c., but could not perceive that any of the enemy had been there since the 29th. The army proceed-

ed and encamped ten miles from Newtown. Knawaholee contains twenty houses.

Sept. 1. The army marched from their camp 10 miles from Newtown. The road was mostly through a large swamp abounding with vast quantities of large hemlock, the left hand column had to cross a creek, which empties into the Seneca Lake, near 30 times in the course of three miles. It was dark before the army could reach Catharine's Town, where they encamped, distance  $13\frac{1}{2}$  miles. The road in general very bad, several pack horses were lost, 2 horses had their necks broke, and many of the horses and men did not reach camp until next day. This town contains thirty houses, but poorly built, with orchards—likewise a great quantity of Corn, &c., and the Creek above mentioned runs through the centre of the town and discharges itself into the Seneca Lake, 5 miles below the town.

2. The remainder of the army, &c. came in this morning, was found also an ancient Squaw of the Cauga Nation, who gave an account of the precipitate flight of the enemy. The army destroyed the Town, Corn, &c. this day, also cleaned their arms, Linen, &c.

3. Marched from Catharine's Town for 12 miles and encamped, the whole of this day's march having a fine view of the Seneca Lake, the land excellent, and well timbered.

4. Continued the march as above for 12 miles, the land the same as yesterday, and the Lake in view. Four miles from last camp passed by an Indian castle, built on the edge of the lake; here was found several Indian colts, as was also at Catharine's Town. From here we proceeded on our way destroying several small corn fields, beans, &c. and encamped as above.

5. Marched to Kanadia, 5 miles distant from last camp, a very good road, a very fine cataract halfway between here and the last camp.

Kanadia is a very fine town well built with large Orchards, the town bordering on the lake pleasantly situated. Here met with a man who had been captured by the Indians last fall at Wyoming. This town contains 20 houses, and here was lost 27 head of cattle.

6. For the most part of this day was destroying corn and collecting the cattle and horses. At 3 o'clock in the afternoon marched 4 miles and encamped close to the Lake, there being good pasture for cattle, &c.

7. Marched for Canadasago 12 miles from last camp. The march continued for 9 miles along the Lake, then waded the outlet. Gen. Maxwell's Brigade was then despatched through the woods in order to come on the back of the town, which was effected before dark, but found the town abandoned. The town is extremely well built, a good Orchard, and an abundance of corn. The town consisted of 50 houses. Here we found a white child about 3 years old.

8. A party of 400 men was despatched to destroy a town called Gotsinsquea, situate on the west side of the Lake, consisting of 14 houses. A party of Volunteers made a forced march along the Seneca Lake and destroyed a town called Schoyerre, consisting of 18 houses, very pleasantly situated, several Fish Ponds abounding opposite the town. The rest of the troops were employed destroying corn at and about Kanadasago.

9. Marched for  $7\frac{1}{2}$  miles mostly through a swamp and encamped in the same.

10. Marched to a town called Kanadaque, distant 10 miles. This town consisted of 23 houses, very badly situated for water, the houses in general very large, with a good quantity of corn, &c. This town is situated about  $1\frac{1}{2}$  miles N. W. of the Chinese Lake.

11. Marched for Hanayaya, distant 13 miles from Kanadaque, consisting of 10 houses, situated on the edge of another of the Chinese Lakes, on a fine flat. Here was left Capt. Cummings of the 2d Jersey Regiment with 50 effective men, with all the provision, am-

munition, and all other heavy baggage that could be spared, also a three pounder and some of Col. Proctor's Artillery.

12. Marched for Kanaghsaws, distant 11 miles, but a very indifferent road, and was obliged by night coming on to encamp within one mile of the above town.

13. Marched for the above town where the troops were ordered to halt and cook their provisions. The preceding night Lieut. Boid of the Rifle corps was sent to reconnoitre. He had with him one Indian for a guide and 24 Volunteers. His orders was for only 5 or 6, and was to proceed to Chinesee, the capitol of their country. They lost their way and fell in with a little castle on the Chinesee river. Here they surprised a few Indians, two of whom they killed and scalped, and was on their return to Kanaghsaws, when they were surrounded by the enemy who killed 14 of the party, and took Lieut. Boid and one man prisoner. The rest of the party made their escape to camp. The light troops were immediately despatched to their assistance, but was too late, they having effected their end, and made their escape with a great loss on their side. The Surveyor and a Corporal's Guard was also fired upon by the enemy who wounded the corporal and one private. The army which was at this time destroying corn, &c. was immediately ordered to march to the Little Castle, 7 miles distant, which contains 8 houses. Kanaghsaws consisting of 25 houses, is pleasantly situated in a large Valley, a very fine run of water running through the same. Encamped at the Little Castle.

14. Marched for Chinesee, the Capitol of the Indian country, crossed the little Chinesee River and marched through a large vale near 4 miles in length, where the enemy must have seen our whole strength and order of march. Then crossed the Chinesee river and arrived at the Chinesee castle, here they found the fires fresh and the bodies of Lieut. Boid and the other his fellow sufferer mangled in a most inhuman and barbarous manner, having plucked their nails out by the roots, tied them to trees and whipped them with Prickly Ash, whilst the rest threw darts at them, stabbed them with spears, cut out their tongues, and likewise cut off their heads. This town is very large and well built, containing 128 houses. The enemy from all their Nations have been employed here all last spring raising grain, &c. A woman came to us who had been captured at Wyoming by the savages with a child in her arms, about 7 or 8 months old. She says the Indians sent off all their Squaws and Baggage to Niagara: The whole of the army now in high spirits at this our last stage.

15. The whole of the army this morning with the greatest cheerfulness went about destroying the Corn, Beans, &c. which they effected by 12 o'clock. At 1 o'clock the army began their march to Teauga and encamped in the valley aforementioned close to the Chinesee river.

16. After finishing the destruction of all the corn at this place by crossing the river passed by the Little Castle and encamped at Kanaghsaws. This place it is said was commanded by a negro, who was titled Capt. Sunfish, a very bold enterprising fellow.

17th. This morning began our march to Hanayaya. We found Captain Cummings and his party in perfect health and security, having erected a small fort for their safety, the works consisting of flour, also bags of flour, the latter they completed ambroziers picketed on the outside with the tops of the Apple Trees sharpened.

18. Marched for Kanadaquon. On the road was met by an Indian Sachem from the Oneida Nation who brought a message from that Nation in behalf of the Caiuga Nation besides some other important despatches.

19. Marched to Kanadasago and was met on the road by an express from Tesoga with an account of Major Lee of the Light Dragoons having surprised the Gar-

rison at Powell's Hook, dismantled the enemy's works, and brought the men that composed the Garrison off prisoners.

20. This morning a party of 200 men were despatched to Gotsenquea to effect the total destruction of that place and any other that they might find on that side of the Lake. At 12 o'clock a party of 600 men was despatched with Lieut. Col. Dearborne on the south side of the Caiuga Lake to destroy all that remained of that Nation on that side. Col. V. Schoyk was despatched with 150 men through the Indian country towards Fort Schuyler to forward the baggage of Gen. Clinton's Brigade towards Albany. The army then marched to the ground they occupied on the 6th instant.

21. Marched for 18 miles situate between the two encampments of the 4th and 5th instant.

22. Marched to Catharine's Town and encamped on a meadow 3 miles beyond the town on the bank of the aforesaid crooked Creek. Here we found the old Squaw before mentioned.

23. Marched to Knawaholee where they were met with provisions, &c. from Teauga. Here Col. Shreeve had established a post during the absence of the army for the convenience of forwarding corn, &c. to the Garrison. The army now received their full allowance of provisions, they having cheerfully submitted, by giving three huzzas, on the 30th of August to live upon half the usual allowance. The army now halted to refresh themselves, wash their Linen, and also to clean their arms, small parties every day fetching in corn, &c. to send to the Garrison. Col. Smith and his party joined the army at this post on the 25th instant, as did Col. Dearborne on the 27th, having destroyed on the Caiuga, Houses, to the amount of 18, and a town situate on the border of the great Swamp called De Ho Rass Kanadia, containing 25 houses very elegantly built, likewise destroyed a great quantity of Corn, Beans, &c.

I return to the 20th to follow Col. Butler, who left us at Kanadasago, and proceeded along the outlet of the Seneca Lake for 8 miles and halted at Schoyerre, formerly destroyed by Col. Harper.

21. Early this morning a party of 200 men under the command of Major Scott, was despatched to destroy corn, &c. the remainder with Col. Butler proceeded on forward. Seven miles of the road was very bad, the land poor and barren and no water. They then entered on an excellent Swamp which produced fine Timber, the soil exceeding rich and fertile. This extended for 4 miles when they reached the Caiuga Lake. This they crossed at a place, wading it to their breasts in water, where they halted, waiting for Major Scott and his party. As soon as they had joined they proceeded along the Lake side, the land excellent, the Timber large, the country level and well watered. Came to a habitation within 1 mile of Caiuga town and encamped 18 miles from Schoyerre.

22. Marched to Caiuga 1 mile distant. This town is large and commodious, consisting of 50 houses mostly well built. The party went immediately to destroying corn, &c. with which this place abounds, but the water very bad and scarce. Here was found some salt of the Indians making from the salt springs which are in this country. Found several muskets here branled with the brand of the United States, also a few Regimental coats, blue, faced with white.

23. The most part of the day taken up in destroying scattering towns, corn, &c. within two and three miles all round this town. About 4 o'clock marched for another town distant about 4 miles but could not learn any name for it and here halted for this night.

24. This morning went to destroying corn, beans and Orchards. Destroyed about 1500 Peach Trees, besides Apple Trees and other Fruit Trees. This town consisted of 13 houses: Then marched for 18 miles, the first 12 the land exceedingly good, the other 6 not extraordinary.

25. Marched for 10½ miles, the road mostly had, having to ascend and descend extremely steep and difficult mountains, then through thick and difficult Swamps, passed the end of the Cangu Lake and halted at the above distance at De Ho Iss Canadia which they found burnt and the corn partly destroyed. Here was found the Rev. Dr. Kirkland's horse, supposed to be left here by the party who destroyed the corn, &c.

26. Marched for 18½ miles through the Great Swamp.

27. Marched for 17 miles, 15 of which was through the above Swamp most part of the way they had to steer by the sun, there not being the least resemblance of either road or path. A man of this party died suddenly.

28. Marched for one mile and crossed the outlet of the Cangu Lake and came upon the ground occupied by the army on the night of the 31st of August, from thence to Knawaholee where they joined the main body of Gen. Sullivan's army.

29. The whole of the army marched 2 miles beyond Chemung.

30. Marched to Teagosa. The Garrison saluted the army by a discharge of 13 cannon, which was returned by the Park of Artillery. The army then proceeded to their respective encampments. In the evening Col. Shreeve made as grand an entertainment as the circumstances of the place would admit to which the Commander-in-chief and the rest of the General and Field officers were present.

Oct. 1, 2, and 3. Nothing material.

4. The army marched within 4 miles of Standing Stone Bottom.

5. The whole of the army embarked on board the Boats except a few who rode the Pack Horses.

7. Arrived at Wyoming and was saluted by the Garrison.

8. The Commander-in-chief was the first person on shore. A grand entertainment was ordered by Col. Butler, the Commander at this post, at which was present the Commander-in-chief, &c.

10. This afternoon the army began their march to Easton, but on account of the badness of the road they were obliged to encamp within 4 miles of Wyoming.

11. Continued our march to the edge of the Great Swamp and encamped.

12. Continued the march through the Swamp the roads being extremely bad. The Pack Horses took a wrong road, and the Troops were obliged to lie without their tents or covering during a very stormy night.—Encamped at Chouder camp.

13. Marched to Brinker's Mills where the Pack Horses came up.

14. Marched to Hilliard's Tavern.

15. To Easton.

17. The whole army was mustered, and a Thanksgiving Sermon was Preached by the Rev. Dr. Evans, Chaplain to Gen. Poor's Brigade, at which was present the Commander-in-chief and the whole of the army at this post.

27. Crossed Delaware and encamped opposite Easton.

28. Marched to Queensborough Oxford Meeting House.

29. To the Log Goal.

30. To Sussex Court House.

31. To Wallen's Tavern.

Nov. 1. To Warwick.

2. Parted with the Western Army.

3. Marched to Sterling Iron Works and from thence to Pompton.

4. To Moristown.

5. To Springfield.

6. To the Scotch Plains and encamped. Remained there in tents for six weeks during the most severe and cold weather.

Dec. 16. Marched for Chatham.

17. To Eyre's Forge and encamped and began to build huts.

25. Removed into our huts and ended the campaign.

Here ends the Glorious and Noble Campaign,  
Which gave honor to Sullivan, Clinton and Wayne,  
That they be always crowned with merit,  
To lead their men on with an undaunted spirit.

GEORGE GRANT, Serg. Maj.  
to the 3d Regiment of N. Jersey.

## THE AMERICAN MOLE LOCUST.

No. 11.

"July 27, 1766.

"Dear Sir,—On the eighth of June, 1766, I took several twigs of different kinds of trees on which I then saw Locusts laying their eggs; of these twigs I put some in empty phials; some in phials with a little water, and some I stuck in a pot of earth, which I kept moist in order to preserve the twigs fresh.

"July 21. The eggs in the twigs in the phial with water hatched; so did those in the twigs in the pot of earth, soon after them; but the twigs in the empty phial being withered, the eggs perished; if the twigs lie near the ground in the shade, so as to be kept moist, the eggs in them will hatch in their due time: but in them that are exposed to the sun, they surely die.

"The young Locusts that were hatched in the phial ran down the twigs to the water on which they floated four and twenty hours, and then died; those that were hatched in the pot of earth, entered the earth as eagerly as they could, to escape from the light. The moment they are hatched, they appear through a Microscope as perfect in their form as when they emerge from the earth.

"I have not yet been able to discover the depth to which these insects descend. Some have been found thirty feet deep. I have seen them ten.

"Yours, &c.

"MOSES BARTRAM.

"PETER COLLINSON, Esq."

The remarks made by Mr. Bartram are correct, and it is not a little remarkable that I first saw the pupa from the egg on the twenty-second of July the present year.

I also think proper to add, that the pupa of the Summer Locusts emerged from the earth in different parts of this county on July 12th, and I remarked the rapidity of its flight and listened to its cheering notes on the 13th.

Yours truly,

R. C.

LANCASTER, July 22, 1834.

## IRON STEAMBOAT.

We copy the following paragraph from the Baltimore American:

The iron steamboat, intended to ply as a regular trader on the Savannah river, between Savannah and Augusta,—the first iron Steamboat ever used in this country,—has been launched at Savannah. She draws two feet four inches without boilers. She has been called the *John Randolph*. The projector of this novel enterprise, is Mr. G. B. Lamar. The boat we believe is of

British construction, and, as an experiment, was allowed to be imported either free of duty, or at a reduced duty, we do not recollect which."

A slight retrospect into the dominions of the past will serve to prove that the assertion in the article above quoted which says that Mr. Lamar's is the "first iron steamboat ever used in this country," is entirely incorrect. About ten years ago, great interest was felt, and much effort made in the experiment, in which none more largely engaged than the citizens of Baltimore, of trying to render the Susquehanna navigable by steam. For this purpose, a boat worked by this kind of machinery was built on the waters of the Chesapeake Bay, and was brought up to this place through the rapids which obstructed the course of the river by one of our enterprising and skilful pilots. She, whose name was the "Pioneer," was soon followed by another called the "Susquehanna." While the Baltimoreans were thus busily employed, the citizens of this part of the country were not idle or unconcerned spectators. An enterprising firm in York—Messrs. Davis, Gardiner and Webb, constructed in that borough a steamboat, the entire material of which was iron, which they brought on wagons to the river shore, opposite Marietta, and launched on the 7th day of November, 1825, as we are informed by the gentleman who was her Captain. The three boats, we believe, all ascended the Susquehanna, far up the North (and probably the West) branch—one of them burst her boiler near Catawissa, by which explosion, occasioned, if we mistake not, by putting on too much steam in ascending a swift current, some lives were lost—and we well remember that another of them probably the iron "Codorus," was drawn out of the water and repaired at this place. The endeavor to navigate the river by steam proved vain and fruitless—the numerous falls, sunken rocks, and shallow channels, presented an insurmountable obstruction at that time—the boats were taken down to tide, and the "Codorus" was sold and used either at Baltimore or Alexandria, at a ferry or in other business. Shortly after that period, Pennsylvania embarked in her grand scheme of internal improvement by canals, in which railways were afterwards included; and although the advocates and opponents of the system occasionally got into hot water with each other, nothing more was said about steam. Within the last year, the old plan has again revived—the citizens of Harrisburg took the subject in hand with great zeal and petitioned the general government to undertake its accomplishment, and although no specific appropriation was made, yet the secretary of war has expressed his willingness to have the river surveyed by a competent engineer, provided the citizens adjacent to the route will obtain assistants and pay expenses. In addition to this, the citizens of Wilkesbarre and that section of the state are taking measures to run a steamboat on the north branch, between that borough and Owego, in New York. The above remarks plainly prove that, whatever credit Mr. Lamar may deserve for importing from England an iron steamboat, the citizens of York have actually built in their own town, and the Susquehanna has been navigated by one almost nine years ago.—*Col. Spy.*

## SUGAR REFINING IN PHILADELPHIA.

The following extracts, in relation to sugar refining in Philadelphia, are made from a pamphlet prepared "under the direction of the Secretary of the Treasury, in compliance with a resolution of the House of Representatives January 25, 1830," and submitted in 1833.—It is prepared by Professor Silliman, and is entitled, "*Manual on the Cultivation of the Sugar Cane, and the Fabrication and Refinement of Sugar.*"

### *Canby and Lovering, Church Alley, Philadelphia.*

We were permitted to examine this important and excellent establishment, with all necessary deliberation. It is well worthy of a distinct notice; but that which we shall now give will be the more brief, because, in the preceding pages, we have already described, under another head, the most important details of this method of working.

### *Animal Carbon.*

Animal Carbon being here exclusively used for clarification, blood, clay, and lime, are entirely excluded, except a little lime water, to remove acid from molasses. Animal Carbon is now prepared largely in all our cities, where its use is required. The process is, by heating bones for about twelve hours in close vessels. In Philadelphia it is prepared by Cornelius Tiers.

In the refining of Sugar, it is used in the proportion of from three to ten per centum, according to the quality of the Sugar. The average of Canby and Lovering, is about seven per cent. They do not use the finings of Mr. Howard, or any other finings, nor are they used, as far as we can learn, any where in this country, except at New Orleans.

### *Liquoring.*

Instead of claying, they resort to liquoring;—that is, to the filtration of syrup, through the loaves or lumps of sugar. The liquor is made from sugars of different qualities—always better, however, than the Sugar which is to be whitened; and when loaves of the first quality are to be made, the liquor is prepared of the finest materials.

### *Manner of applying the Liquor.*

The liquor, being a substitute for the wet clay, is poured, from tin watering-pots, into the reversed moulds or cones, and it removes the molasses, by washing it out, exactly as the clay water would do; but, being a strong solution of sugar, it cannot, materially, diminish the quantity in the loaf, and, as happens in the case of claying, the whole of the saccharine matter must be found, either in the loaf, or in the syrup. The liquor, while it will not impart any color, will probably be more effectual in removing it, than water flowing from clay, as the sugar, in solution, will attract the coloring matter with more energy than mere water would do.

Clays are, not unfrequently, tinged by metallic or organic matter, and then they impart color, instead of removing it; but such clays are generally rejected by refiners.

In the mode of applying the liquor, this house have some admirable arrangements, which, being confidentially exhibited and explained, we are not at liberty to speak of, except in very general terms. We may say, that the process is only an application of a principle of science to a practical act, and the observer sees, at once, a fine philosophical experiment, and a grand economical result.

The importance of this result is apparent from the fact, that not only common Muscovado sugar, but the crude dark sugar, (obtained from molasses,) is, by this particular mode of liquoring, converted into very beautiful coffee sugar, and that with great rapidity.

In the manner alluded above, it is, hitherto, practised no where except in Philadelphia and in New Orleans. The drainings are again converted into sugar, or retained in the form of molasses. The liquoring is usually repeated twice, or sometimes even thrice on the same sugar.

### *Filtering.*

The filters are made of a close strong bed ticking, of cotton, and are stretched on a square moveable frame, as long as half a common window. The frames are placed vertically, and the liquor passes through them, by hydrostatic pressure. One filtering answers the purpose. The filtering cloths become very foul, and are

cleaned, once a day, or at every operation; it is done, by rubbing them with a brush and warm water. This invention is patented, and is, of course, public.

#### *Evaporation.*

This is conducted upon the principle of Howard, that is, in a vacuum.

We are not at liberty to state the details of the excellent apparatus, in the refinery of Canby and Lovering. It is of easy management, effectual, rapid and safe. The evaporation proceeds, at about 150° of F., a temperature nearly 100° lower than in the old evaporating pans. At this low heat, the delicate arrangement of the elements of the Sugar, is not disturbed, and the syrup is, very rapidly, brought to the crystallizing point. In the process by the vacuum, there is no necessity for throwing butter upon the frothing fluid, to prevent it from boiling over. There is a cavity into which this frothy effervescence passes, and, also, an apparatus fitted to receive and preserve that part which does not fall back into the boiler.

The temperature is observed by a thermometer, and the pressure by a barometer. The temperature, as already stated, is generally about 150°, and the pressure about two and a half to three inches, upon the surface of the liquid in the evaporating pan. Although a charge of 200 gallons is worked off in twelve or fifteen minutes, still the low temperature, stated above, is maintained in consequence of the rapid removal of the vapor, by the steam engine and air pump. In the vacuum apparatus, of every variety, there is no need of a safety valve, as the pressure is not outward but inward, and as all of these vessels have a convex form, the external atmospheric pressure is thus easily resisted. There is an orifice by which the atmosphere is let into the pan, when the contents are to be drawn off into the open granulator or crystallizer.

It is almost unnecessary to add, that the syrup is clarified and filtered before it passes into the evaporating pan.

#### *Crystallization.*

This often takes place, in part, in the vacuum, before the charge passes into the open crystallizing pan, which, in the case now before us, contains 400 gallons.

It is placed parallel with an iron vessel of the same form (that of a bowl) and between the two, steam enters to melt the sugar, and, if necessary, still further to evaporate the water, and the charge is laded directly into the moulds, which, as in the old refineries, stand very near to the crystallizing vessel.

In this vessel, we observed a thermometer suspended, its ball being in the liquor, and indicating about 150°. We have observed the thermometer in use in only three refineries. In the same vessel which receives the charge from the vacuum pan, they evaporate and crystallize the molasses, previously concentrated in the vacuum, and obtain a large product of coarse and inferior sugar, which crystallizes while the evaporation is going on, because the water of crystallization is not sufficient to hold it any longer in solution.

This sugar is, by the particular process already alluded to, very greatly improved in quality and made superior to the best obtained in the common way.

#### *Miscellaneous Facts.*

The steam engines used in this refinery, are of low pressure, and the fuel is anthracite.

The vats, or blow ups, as they are called, containing the sugar, molasses, or syrups, intended to be purified, are heated by steam tubes passing through them. The molasses is sometimes, as we observed in this instance, exceedingly foul, being filled with sticks, dirt, and other foreign matters, from all of which it is freed by the filters and the charcoal. The Muscovado sugars are also frequently very impure, and they are dissolved in the same manner by steam. The molasses or sugar is,

at once, heated and dissolved by the steam, and also diluted to such a degree by allowing the steam to pass directly into it, that it will readily pass through the filters. There is here a very effectual float strainer, which is a hollow copper cylinder, or two cones, joined at their bases, the copper being perforated by many holes; it is fixed on the end of a moveable copper tube, standing like a bowsprit, and that it may be made to float just under the scum, so as not to be choked by it, and still not be liable to sink too deep—there is fixed to the tube a hollow copper ball or balloon, made air tight, which sustains the tube at the proper elevation. In Howard's apparatus, the state of the syrup, in the vacuum pan, is ascertained by thrusting in, through an orifice prepared for this purpose, a sort of key called a proof stick; it is of a cylindrical form, and made slightly tapering; there is, on the side near the end which enters the vacuum pan, a small cavity, which, when the instrument enters, becomes filled with the syrup and retains it when it is drawn out. In the apparatus of C. and L. this object is attained in a manner more simple still, and equally effectual. This syrup should rope between the thumb and finger, or, when drawn along the ball of the thumb, just as is observed in the old process of evaporation in the open pan. If the evaporation be carried too far, the crystals, as already stated, begin to be deposited in the vacuum pan, from which they are, however, easily removed, either by the flow of the syrup, when it is drawn off, or by the introduction of a fresh portion of syrup.

Thomas Hewit has recently established a refinery in Philadelphia upon the plan of Canby & Lovering.

#### *Philadelphia.*

We have already, in connection with a similar establishment in New Orleans, mentioned the important manufactory of Canby and Lovering, in Church Alley, in this city, which, like that of the Steam Congress company in New York, is conducted upon the principle of the vacuum. There are, we believe, twelve refineries in Philadelphia, including a new one, upon the improved process of the vacuum, which has, recently gone into operation. Most of these establishments, owing to causes that have been already stated, are, at present, but partially active. Eight out of the twelve have adopted animal charcoal, and four do not use it. All of them, except the two upon the improved vacuum process, use lime water, blood, and clay; and therefore the charcoal is regarded as only an auxiliary to the old process, managed by means of the above named substances. The quantities of raw sugar, refined by all those houses, excepting the new one, not yet in operation, are about 14,000,000 of pounds per annum, supposing them to be all in full activity. Their respective quantities are, per diem, counting four days out of the six working days of the week, 18,000 pounds—8,000—6,500—5,600—2 of 5,000—3 of 4,000 and 1 of 2,000. Their general average produce of refined sugar, is 55 per cent. to 45 bastard, molasses and waste.

At present, (May 27, 1833,) five of the Philadelphia houses are not at work; one is doing one-third work—four are doing half work, and two full work; but it is in the lowest kinds of goods; that is boiling molasses into sugar.

*Refinery of J. G. Smith & Son, Fine Street.—Its general neatness and good order.*

This establishment is worthy of being distinctly mentioned. It is entirely on the old plan, and in it, no one of the modern improvements has been adopted. The building is spacious, airy and clean; the premises are white washed; perfect method is obvious every where, and there is no smell of animal matter, or of any other disagreeable effluvia. This refinery, which, excepting one, is the largest in the city, sufficiently proves, that even with the use of blood and clay, it is possible to preserve perfect order and cleanliness, and to exclude every thing disagreeable. The filthiness of some esta-

blishments is evidently unnecessary, and it would be equally for the reputation and interest of the proprietors, to correct it. This it might indeed be more difficult to effect in very narrow, low and crowded premises; where the clamminess of damp sugar and molasses, and of exhalations, often filling the apartments with a dense cloud of vapor, causes every thing to adhere to the beams, walls, floors and stairs; and the two latter especially are often loaded with ridges of dirt; indeed, in some of the refineries, every thing is so plastered with dirty sugar and molasses, that it is next to impossible to make the circuit of the rooms and examine the processes, without incurring great inconvenience to apparel, and the necessity of thorough ablution when the visit is over. As far, however, as we observed, these unpleasant circumstances were found chiefly in old and other narrow and inconvenient buildings. A sugar refinery, whose business is large, in order to be neat, orderly and comfortable, requires ample room.

#### *Lime Water Cistern.*

In the sugar house of J. G. Smith & Son, the lime water cistern, being out of doors, is covered from the weather, although it is not excluded from the access of the air; for the same crust of carbonate of lime, which has been already mentioned, as covering the lime water in the open cisterns, was observed here.

They use, here, one bushel of lime for sixty hog-heads of water, which suffice for one refining, occupying about fourteen days; of these, eight are employed in the refining, properly so called—five for the production of the bastard sugar, and one for cleaning up.

#### *Drying Stove.*

The drying stove is, here, of great magnitude; it extends through five stories, and is from forty to fifty feet high, and fourteen feet long by ten wide.

The lumps and loaves are, in this refinery, all paped, before putting them into the oven; this preserves them from being soiled by dirt, and by handling. The lumps remain twenty-five days in the drying stove, and when they are withdrawn, they stand two days, on the dome of the kiln, outside, the base of the sugar cones being down. The object is, to diffuse, equally, through the entire lump, the small portion of colored syrup, which still soils the little end; this gradual flow is facilitated by the heat of the oven, and when it is finished, the lump has a uniform tint.

In sugar refineries, it is not unusual, to knock off the small colored end, and to use it over again, in refining other parcels.

This company appear to manage their processes, and their entire establishment, with great good judgment, skill and efficiency. They obtain two other crops of lumps or loaves, before they reserve the syrup for molasses, which comes from the draining of the third set of loaves, or lumps; from this molasses they obtain the bastard sugar. In this manufactory, when in full operation, they work about eight thousand pounds of sugar per diem for each of their working days.

#### *Refinery of Paul Lajus & Co., Broad Street.*

This establishment was, until recently, carried on, upon the old system, but it has been, entirely, remodelled, upon a French method. The workmen are all French, who came out, on purpose, to manage the business of the manufactory, which retains only one feature of the German method, and that is, the use of blood, in certain cases, and to a certain extent.\*

This manufactory is, apparently, one of great excellence. We do not speak of it in relation to profit—which, as it has been in operation but a short time, there has hardly been sufficient opportunity to ascer-

tain. There seems, however, to be no reason why it should not, in this respect, sustain a competition with the best establishments. Its machinery and arrangements evince superior judgment and skill, and its police appeared to be of the best kind. It is not intended, by the proprietors, that access should be obtained, by visitors to this refinery, but to us every thing was confidently shown and courteously explained. The confidence reposed in us, we will endeavor not to violate, although, we believe, that similar establishments exist elsewhere, and that every important fact to be learned here, is now well known.

Howard's apparatus does not exist here; there is neither air pump nor vacuum—neither steam tubes nor steam engine.

#### *Its Fixtures.*

The furnaces, standing on the ground floor, are fed by bituminous coal. The boilers, which are of the usual size, stand so high that their contents will run off, into the filtering boxes.

From these, the filtered syrup is pumped into a cubical box of wood, lined with copper. This is so elevated, that the syrup flows, readily, into the evaporating vessels—which are the (now well known) bascule pans, called also, tilt or see-saw pans.

Concerning these, which, being common in Louisiana, on the plantations, and already mentioned in this account, we are free to say, that they are greatly superior, as evaporators, to the fixed copper boilers, used in most of the establishments. Being swung upon chains, they are, with great ease, raised, lowered, tilted, and, in every way; managed, over the fire; the evaporation is rapid, and can be terminated; at any moment, by pouring out the syrup, by a slight inclination of the bascule, the liquor passing off by its spout. This renders it possible to manage even a rapid evaporation with safety; and nearly, obviates the danger of too great a degree of heat.

#### *Clarification.*

In clarifying, they employ, both animal charcoal and blood; of the latter, not half the quantity, usual in the old mode; and the management is substantially the same that has been already described. The principal reliance is placed upon animal carbon; they use blood only when they would wish to make very fine sugar; for coarser sugars, they employ animal charcoal alone; about ten per cent., more or less, according to the quality of the sugar. Lime water is not used.

The contents of the boilers or pans—namely, syrup and charcoal and scum of blood, when the latter is used, all flow together into the filtering boxes, where the syrup passes, many times in a day, through cloth; and the blood-scum aids in detaining the fine particles of charcoal, which float in the liquor, and which it is difficult, otherwise to arrest.

#### *Filtration and Pressing.*

The filters are washed, once a week, as in other establishments, and the washings are saved for future use, in the clarifying pans.

The scum is pressed, not as already described, in other cases, by a rope twisted by a stick around the neck of the containing bag; but by a much stronger pressure, is applied in a screw press, which appears to be a far better process; although, it is said, that those accustomed to the old mode, prefer it. The fluid which exudes goes again to the clarifying pans.

#### *Moulds and Granulation.*

The moulds are of English ware; they are filled, as in other manufactories, and the syrup is stirred in them, to aid its granulation; or, in other words, to prevent the formation of large crystals; they do not wait for the granulation to take place in the copper coolers.

The pots are washed, in a large wooden vat, and the

\* At present, May 27, 1833, they have replaced the French by German workmen, only they retain a French foreman.

washings when reserved, are, probably, used by the distillers, or for the formation of vinegar.

Formerly this kind of refuse was sold at one dollar a barrel; now, however, it is often thrown away, as it is at best a foul and poor fluid.

#### *Oven for Sugar Candy.*

There is a room for forming sugar candy. It is a small apartment of brick, and is warmed by a stove, for the purpose of evaporating the syrup, gradually, until it will crystallize. The syrup is made very strong, and threads are suspended in it, around which the crystals form. They, if course, take their color from that of the syrup, and, sometimes, coloring matter is added, on purpose, to impart a particular hue. As in other cases, the size and perfection of the crystals depend on a gradual and long continued evaporation, usually four or five days.

The candy is, sometimes, made in the common drying oven. Canby and Lovering have, heretofore, made it in that manner; their drying oven is warmed by steam tubes, and although it rises through six stories, it can be readily heated to 200 degrees or more, and this degree of heat is sometimes used by them; they can then readily make the sugar candy.

#### *Slide for Clay Caps.*

We observed a convenient contrivance for returning the caps from the upper stories or lofts, where they have been used, to the ground floor, where they are to be worked over again. It is a tube formed in the masonry—furnished with a door, and communicating from the highest to the lowest story; the caps, being thrown in at the upper hole, of course, slide down to the lowest floor.

YORK, (Pa.) July 29.

**THE WEATHER.**—The weather has been remarkably hot during last week—the heat is not so great since Sunday last, but we are left without rain and corn suffers much for the want of it. Within eight or ten miles north, south and east, there have been refreshing showers, while here we had not as much rain in a month as would well lay the dust.

On Thursday afternoon there was a gust at Baltimore, which did considerable damage by unroofing buildings. Several buildings were also struck by lightning.

On the same afternoon a gust passed along the Susquehanna, and took about 150 feet from the Wrightsville bridge, which was just on the eve of being finished. No other part of the bridge was injured, and the stages between York and Philadelphia continue, as they began a few weeks ago, to cross it.

Since the above was put in type, another heavy gust passed round us, and about nine o'clock last night, the barn of George Fackler, 3 miles from York, near the Carlisle road was burnt by lightning.—*Gaz.*

From the Northern Banner.

#### STEAMBOATS ON THE SUSQUEHANNA.

*Towanda, July 26, 1834.*

The citizens of Owego are "up and doing." On the 14th instant, a meeting of the inhabitants of that village was held, with a view to forwarding the project. A committee, appointed at a previous meeting to confer with the citizens of Wilkesbarre, made a report of their proceedings, and presented a letter from the committee lately appointed by a public meeting at Wilkesbarre, showing their readiness to concur with the people of Owego, "in any measure calculated to attain the object in view." A letter from Mr. Randall, showing the practicability of navigating the Susquehanna by steam, and the great advantages to the country that would flow therefrom, was read. Several gentlemen address-

ed the meeting at some length upon the importance of the project, to the parts of New York and Pennsylvania adjacent to the Susquehanna, and the necessity of union, concert of action and energy, on the part of those concerned—alluded to the opinions of Gov. Wolf and other eminent men in Pennsylvania on the subject—urged the propriety of getting up a subscription for building a boat, &c. Mr. Pumpelley, after having addressed the meeting at some length, offered the following resolution, which was unanimously adopted:

"Resolved, That a subscription be procured to the amount of \$10,000 for the purpose of building a steamboat on the Susquehanna river, to run between Wilkesbarre and Owego; that the stock be divided into 1000 shares, at \$10 each, to be subscribed for by the citizens of Wilkesbarre and Owego, and the intervening places."

A committee of seven was then appointed to correspond with, and meet a committee from Wilkesbarre, on the subject of the navigation of the Susquehanna in this borough, at such time as they shall mutually agree upon. A subscription drawn up by the committee was read, and some other business connected with the object of the assemblage transacted, when the meeting adjourned.

GETTYSBURG, July 29.

**COLUMBIA BRIDGE.**—The public will be pleased to hear that the bridge over the majestic Susquehanna is now ready to be passed. On Saturday evening, the Philadelphia stage for the first time crossed it.—*York Gazette.*

**THE WEATHER** has been extremely warm for some time past, and is fast becoming very dry, in our vicinity, though there were fine showers in some parts of this county last week. Within the last ten years there have been but two days warmer than Saturday and Sunday last—namely the 5th and 6th of August, 1827—and but one warmer evening than Saturday, which was the 26th of July, 1830. The mercury rose to nearly 95 on Thursday, and above 94 on several other days last week—and the highest we have ever seen it was 96.—*Compiler.*

BEAVER, July 18th.

**THE CHOLERA.**—This dreadful and fatal disease is again beginning to find its way up the Ohio, and already on this end of the river, several persons have fallen victims to the deadly progress. In our own county, two deaths have recently occurred from its attack. The first was Mr. Hooper, who brought the disease with him from Louisville, and died shortly after he reached Freedom. On Wednesday last, Capt. Knowles, of the steamboat Eclipse, was attacked, and in five hours was a corpse. The boat had been run ashore near the mouth of Beaver, and medical assistance obtained from the borough, but all in vain—the case was beyond the reach of human aid.

<b>TOLLS.</b> —Amount of tolls received at the Collector's Office at Easton, from the opening of the navigation in 1833, up to the 1st of July,				\$7,634 38
During the same period in 1834,				14,448 63
Number of barrels of flour cleared				
during the same period in 1833,				8,912 00
ditto 1834,				14,992 00
Tons of coal during the same period				
in 1833,				17,131 00
ditto 1834,				26,831 00
				<i>Easton Sentinel.</i>

**LARGE HEIFER.**—Col. Joseph Paxton, of Cattawissa, Columbia county, has a Heifer four years old, which weighs 1725 pounds. The editor of the Watchman witnessed her weight on the hay-scales, on Wednesday last.—*Danville Watchman.*

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

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## MR. DU PONCEAU'S DISCOURSE ON FOREIGN LITERATURE AND SCIENCE.

*A Discourse on the necessity and the means of making our national literature independent of that of Great Britain, delivered before the members of the Pennsylvania Library of Foreign Literature and Science, on Saturday, Feb. 15, 1834.—By PETER S. DU PONCEAU, Senior Vice President of the Executive Board of the Association.*

Gentlemen of the Foreign Library Company,—

Among the various institutions that exist in this country for the cultivation and promotion of knowledge, there is none more likely to redound to the honor as well as to the advantage of our citizens, than that which you have lately established. It is a novelty of its kind. In no part of the world, I believe, is there a public library, devoted entirely to foreign literature and science, to the exclusion of books written in the vernacular tongue. But to no country, also, is such a library so well suited as it is to ours. It seems called for by our peculiar situation, to enable us at the same time to vindicate our intellectual character from the misrepresentations which have become so fashionable among a certain class of writers in a certain quarter of Europe, and to free us from the shackles of a kindred, yet foreign literature, which prevent us from fully displaying that individuality which is the characteristic of a truly independent nation.

The success which this association has hitherto experienced; the number of subscribers, the choice of books, the avidity with which they are sought after, and the constant call for more, are a sufficient answer to the aspersions which superficial and flippant travellers delight to throw upon our country. They prove that there are those among us, and not a few of those, who have minds to understand and hearts to feel the beauties of Corneille and of Racine; of Petrarch and of Dante; of Schiller and Goethe, and of Cervantes and Calderon. And mind, that it is not in the great commercial city of New York, where foreigners abound, that this society is established; but here, in Philadelphia, in the *Quaker city*, as it has been called, where it is well known that strangers are comparatively few, and they in general, not persons devoted to literature and science. There would be no necessity for a library like this, if there were not readers of the works that it contains; and unless it was absolutely necessary to gratify the public taste, it would be absurd and ridiculous for any man of sense to dream for a moment of its establishment. I regret that I was not one of those who first conceived this happy idea; but I rejoice that it has been acted upon, and I congratulate you on the success that it has hitherto obtained, and which justifies our most sanguine hopes for the future.

The two objects that I have mentioned, and the attainment of which this institution will greatly promote, are not the only good effects that it will produce. I could enumerate many more, but the limits of this discourse will not permit me to expatiate upon them. I shall, therefore, confine myself to those to which I have already adverted. I hope I shall be able to prove to you the advancement of our literature absolutely

requires that we should cease to look up so exclusively as we have hitherto done to the literature of Great Britain, as the model of our own, and that a more intimate acquaintance with that of other countries will not only enlarge our ideas, but as I shall undertake to show you, will even preserve the purity of our language. It hardly requires an argument to prove that this institution will raise our intellectual reputation, at least among those who might receive their impressions from the misrepresentations of foreign travellers. As to men of real knowledge and sound judgment, they are not to be worked upon by the ephemeral productions of those writers; availing themselves of the benefits which this library offers to them, they will see nothing in it but what might naturally have been expected from the progress of mental improvement in our country.

When I speak of misrepresentations of foreign travellers, I do not mean to advert to those who, conscientiously attached to the constitution and government of their country, view our republican institutions with a prejudiced eye, and represent them in a false light to their countrymen; these have their excuse in the *amor patriæ*, an honourable feeling, in which we do not less indulge than other nations; much less shall I take notice of those, who, laying hold of some national peculiarities differing from those to which they have been accustomed, seem to take pleasure in presenting to the world a caricature of our manners; the former are often respectable, the latter are always contemptible.

But when an author, not unknown in the literary world, after receiving in our country all the attentions to which a respectable stranger is entitled, affects to sink our nation to a low rank in the scale of intellect, and tauntingly reproaches us with the respect that we have long cherished for the literature of his country, which he represents as a humiliating servitude, we are bound, at least, to take warning from him, and free ourselves from those shackles which he boasts that his nation has imposed upon us.

The writer that I speak of is the author of a *Book of Travels in the United States* which he has entitled "Men and Manners in America." I leave to reviewers the unfair description of our manners, with which his work abounds; I confine myself to what has a direct relation to the subject of this discourse. "In the present generation of Americans," says he, "I see no symptoms of improving taste or increasing elevation of intellect. The recorded specimens of this period (the period subsequent to our revolution) indicate a sad deficiency of taste, originality and imaginative power." He adds that we have degenerated, even from our immediate ancestors. Such is the cruel stigma which this author has attempted to fix upon our country. It is our duty to repel it.

That our literature cannot stand a comparison with that of Great Britain, is what I am willing freely to admit, and what no one of us is disposed to deny; but that may be easily accounted for, without recurring to a want of elevation of mind or a deficiency of mental powers. Our existence in the colonial and independent state dates from a little more than two hundred years; during the first century and a half, our country consisted of infant settlements, devoted entirely to agriculture, with a scanty population, scattered through

immense forests, and debarred of intercourse with all mankind, except Great Britain and her dependencies. Those were not times in which science or literature could flourish. Literature has never flourished *anywhere* under a colonial system of government. Yet at the latter end of that period, Franklin arose and shone like a brilliant meteor amidst the darkness that surrounded him. As Britain justly boasts of her Newton, America is equally proud of her Franklin.

The next period of between thirty and forty years, from the commencement of our revolution to the last peace with Great Britain, was also unfavorable to literature. It languished even in Europe. In this country, the first part of it was consumed in the struggle with the mother country for our independence, and in organizing a bold and novel system of government, which other nations have since adopted as a model; during the latter part of it, we were distracted by the intrigues of France and Great Britain, and ruined by the piracies of Great Britain and France, which ended in a war with the former, in which we came off victorious. I must also acknowledge, that during the whole of that period, such was the force of ancient prepossessions, that we had not yet even thought of shaking off the mental yoke which had so long weighed upon us; we seemed to be satisfied with our political emancipation, and despaired ever to be able to wrestle with Great Britain in the fields of literature and science. Towards the end of that period, however, Fulton appeared, who conquered time, space, the winds and the tides, and his genius has changed the face of the world. Two such men as Franklin and Fulton are sufficient to illustrate any nation. I do not speak of our warriors and statesmen, they do not come within the scope of this discourse. Even Washington's great name shall be passed over in silence.

We have had, in fact, no literature until the peace of December, 1814. The war which preceded it, inspired us with a spirit we had never felt before. We had resisted in arms, unaided by friends or allies, the whole force of Great Britain; we now thought for the first time of an independent literature. The task was not an easy one; what cost Great Britain centuries to achieve, we could not expect to perform in twenty years; but we have begun, and are gradually advancing. Before the time that I speak of, it might, perhaps, not improperly have been asked: Who reads an American book? In less than twenty years after our first beginning, we have produced books that are read all over the world, that are translated into various languages, and are honourably noticed in the scientific and literary journals of all Europe. As the writers of those books are almost all living, I abstain from alluding particularly to any of them. Those have been (with a few honorable exceptions) our first efforts, and yet the colonial spirit which has borne so long upon us, is not quite extinguished. We have still to prove to foreigners that we are in every respect an independent people.

It is not only unjust; it is cruel, in the traveller of whom I have been speaking, to ascribe the little progress that our literature has made in twenty years, compared with that of Great Britain in three centuries, to the want of *mental powers*, and to stigmatize us as a degenerate race. He turns our libraries into ridicule, because they are not so large as those which have been for ages collecting in Europe. "If a man," says he, "were to read all the books that exist within the limits of the United States, there could not be enough to make him a truly learned man." This is bitter sarcasm; but I would hardly take any notice of it, if it were not connected with the object of our institution. Permit me, therefore, to say a few words upon this subject.

That our public libraries are not to be compared with those of Europe for the number of books that they contain, is what cannot be denied. At the same time it is right that I should say that any one who will take the trouble to cast his eye over our catalogues, will con-

vince himself that their contents are well chosen. It is true that we do not possess all that useless multitude of books with which the great European libraries are encumbered. We do not possess that immense number of volumes of polemic divinity which during so many centuries deluged Europe with blood, nor the enormous mass of commentaries on the civil law that appeared after the discovery of the Pandects at Amalfi. Our libraries do not contain the controversial writings between the nominalists and realists, the Scottists and the Thomists, at one period, and the Jansenists and Molinists at another. We have enough of our own *is's*, about whom the Europeans care as little as we do about theirs. I admit that we have not sixty or a hundred editions of the same work; that we do not abound in Aldis and in Elzeviers; that our collections of the *Cinquecentisti* are not considerable, and that we have but few of those manuscript missals, rituals, Homilies and Theological works without end, which are so much sought after on the European continent. It is not here that the learned Mai must seek for Palimpsests to discover under illegible trash, some fragments of Fronto or of Cicero de Republica, and the Institutes of Gaius will not be found here, half devoured by rats, after lying for centuries unnoticed and unknown. If, however, we do not possess these, it does not follow that our libraries do not afford ample means for acquiring real learning. We are not deficient in works of science or of elegant literature. We possess the Greek and Roman classics, and those of the modern nations of Europe; though we might rest contented with Gibbon's History of the Greek, and Von Hammer's of the Ottoman Empire, for the disgusting catalogue of crimes that disgrace the times of which they speak, yet the lover of antiquity will find on our shelves pretty complete collections of the Byzantine historians; and he who would wish to know what books formed a library at Constantinople in the ninth century, may satisfy himself by reading the *Myriobiblion* of Photius, which I mention only by way of example. The works of the fathers of the Christian Church may be found in our theological libraries, to which they properly belong, and they are not inaccessible to those who would examine them in a literary point of view. In short, our libraries, though not so large as those of Europe, yet are sufficient to satisfy the wants of a student who is contented without "all the reading never to be read."

But, gentlemen, if the size of libraries were a safe criterion from which to judge of the knowledge or of the intellect of a nation, it would follow that Great Britain is inferior in these respects to several of the other nations of Europe. The largest library in England (the Bodleian at Oxford) is said to contain five hundred thousand volumes, though some say only two hundred and eighty thousand, including manuscripts, while the Royal Library at Paris contains two millions of printed and manuscript volumes.\* Is the author of *Men and Manners* prepared to admit that Great Britain, in point of intellect or knowledge, is inferior to France, at least in the proportion of four to one? People should be careful not to throw stones, without knowing where they may light.

I have said enough, and, perhaps, too much on the subject of this ill humoured traveller. But, as he has taken the liberty to amuse himself at our expense, I beg you will permit me to entertain you for a few moments at his, and to show you by that means to how little respect his opinions are entitled.

Know, then, gentlemen, that this same traveller, as I

\* Galigiani's Paris Messenger, says:—"The Royal Library at Paris, on the 1st of January, 1833, contained 1,985,000 volumes, including manuscripts, books of engravings, and numismatical works. On the 1st of January, 1834, it will contain at least 2,000,000 volumes, as every year, on an average, 20,000 new works are deposited there."

have been credibly informed, is a native of Scotland. No disgrace to him, I am sure; there is not a more true hearted people on the face of the earth, than that which inhabits old Caledonia. They hold a high rank in science and literature, and, though a little tinged with pride, they are exceeded by none in excellence of heart, or urbanity of manners; above all they are distinguished by their patriotism and by their attachment to the soil that gave them birth. You will, therefore, not be a little astonished when you hear that that gentleman, in describing the men and manners of his native country, has treated it, it would be too little to say with more severity than our own, but with unexampled, and, I am convinced, with unmerited cruelty. Have a little patience, while I try to make good my assertion.

The writer that I speak of, has made himself known to the public, as the author of a novel, entitled "Cyril Thornton,"\* and we have no right to know him by any other description. After reading his travels through our country, I had the curiosity to read that romance. My astonishment was as great as yours will presently be, when I read what I am going to relate.

The hero of the tale is a young Englishman, who is sent to Glasgow, the greatest commercial and manufacturing town in Scotland, to complete his education. There he is placed under the care of an old uncle, a rich merchant, excessively vulgar in his manners, but whose character otherwise is unessential to our purpose. The period at which the scene is laid is about thirty years ago; indeed it cannot be much more than twenty years before the time when the book is presumed to have been written. We must, therefore, consider the description which the author gives of that country as a delineation of contemporary manners. Nations do not change their habits in so short a time.

The author, then; introduces his hero, under the guidance of his uncle, into what must be considered the first society of the place. The young man is invited to a dinner at the house of the Lord Provost, the first magistrate of the city, where it is to be expected that the most respectable and the best educated company are to meet. The scene opens with a visit from the son of the great man to the hero of the tale; he comes in person to invite him to dine with his papa. That young man's conduct is marked with the most excessive ignorance of decency of manners, and, amongst other things, he spits on the floor, as if he were on the deck of a Mississippi steamboat; but this is nothing to the dinner, which takes place at the appointed time. The guests are announced by an awkward servant in the most awkward manner; the company at last are assembled; there is my lord mayor and the lady mayoress, with their hopeful son and their two daughters, Miss *Jacky* and Miss *Lezy*. There is a minister to say grace. The rest of the company consist of a number of Scotch gentlemen and ladies, the flower, as we must presume, of the city of Glasgow. But now a scene of ravenous gluttony and coarse vulgarity begins, mixed with the most ludicrous attempts at gentility. I cannot attempt to delineate it to you; my feeble talents are not equal to the task. Suffice it to say, that at that table (I was going to say *stable*) there is not a single exception to the disgusting manners which characterize them all; no, not even the reverend priest; there is not one redeeming individual;

\* Sir Walter Scott, while he wished his name to remain concealed, published his novels as written "by the author of Waverley." Since that time every romance writer has adopted that mode of describing his own person, forgetting that this kind of imitation will not bring them a step nearer to the name or fame of the great unknown.

General Washington was very fond of those hickory nuts which we call *shell barks*. In consequence of that, the young officers of the revolutionary army affected a great fondness for that fruit. But there has been but one Washington.

not one solitary guest to show that it is not the general character of the country that is described; the author, on the contrary, avows in a subsequent chapter, that he has thus depicted the *great majority* of what he calls the "mercantile and manufacturing aristocracy."

I shall pass over the after dinner scene, in which the lady mayoress and her charming daughters, are represented in their dishabille, over a dish of cold tea, where they are surprised by the hero, as they had not expected that any of the gentlemen would leave their bottle to seek the company of the ladies. It is ludicrous in the extreme. I cannot refrain from laughing, when I consider what a figure would be made by Miss *Jacky* and Miss *Lezy*, if with their elegant mother they were to make their appearance at one of our social circles in Philadelphia or New York. They would probably be invited to display their graces in the more congenial atmosphere of the kitchen.

But, gentlemen, this is not all. We are next presented with a funeral scene, at some distance in the country. The deceased was a *laird*, or, what we would call here, a *country gentleman*, an uncle of the hero, and a brother of his protector. We are now to have a description of country manners. The hero and his surviving uncle, of course, go to the funeral, which is attended by a great number of the neighbouring gentry. They have hardly entered the house of mourning, than the scene opens with eating and drinking, and healths are pledged round in great style. The funeral at last proceeds; it is scarcely ended, when the company meet again at a sumptuous supper, where such gormandizing and bacchanalian orgies take place as baffle all description. Singing songs, roaring gl'es and catches, drinking toasts, and all the concomitants of unbridled debauchery, succeed each other during the night, until at last the brutes in human shape attain the last period of drunkenness, and are seen lying on the floor, amidst the wreck of dishes, glasses and bottles spread in confusion around them. Here, again, there is not one decent character to relieve the mind from the disgust which this picture inspires; not one righteous man to save that Sodom from destruction.

This is Scotland; town, country and all, as depicted by the author of *Men and Manners in America*. It will be said that it is in a novel, a work of fiction, and, therefore, the writer did not mean to throw disgrace upon his country. But, gentlemen, we all know that in works of that description, the fable and its incidents are indeed fictitious, but the manners, habits and customs of the time and place where the scene is laid must be correctly represented. A novelist is expected to "paint the manners living as they rise;" this was well understood by Fielding, Richardson, Smollett, Miss Burney, and particularly by the late Sir Walter Scott, whose excellent novels, admirable as they are, would lose all their interest, were it not for the faithful pictures which they exhibit of the manners and customs of different times and different places. A little colouring, I admit, is allowed to the novelist, to give effect to his pictures, but that should never go so far as to destroy altogether the likeness of the objects which he intends to represent.

I would ask, now gentlemen, whether this author has given such a picture of bonny Scotland as a conscientious romance writer would consider legitimate? If he has, we must bless heaven that we live in America, and not in such a country as he has described. If, on the contrary, he has calumniated that country then why should we complain that he has not shown more favour to ours?

But why, you will ask, should a man thus try to degrade the country that gave him birth, and indiscriminately hold up to derision and contempt the respectable classes of the society to which he belongs? It is not for me, gentlemen, to investigate this author's motives; to us they are of no importance; the best apology that can be made for him is, that the same ill humor which

prompted him to write against this country, guided his pen when he wrote about his own.

Among the reproaches which the same author makes to our country, there is one, I regret to say, which is not altogether unfounded, but which, according to his custom, he makes the pretext of contumelious language. I mean our too great dependence on the literature of Great Britain, which he is pleased to call *mental allegiance*. I pray you to hear what he says. After adverting, as I have mentioned before, that we are deficient in taste, originality and imaginative powers, he thus proceeds to assign a reason for it. "Starting," he says, "like another Adam, into sudden political existence; preserving the laws, and dependent on the literature of England, America found it more difficult to cast off the trammels of mental allegiance, than to burst asunder the bonds of physical enthrallment." This is the unkindest cut of all. But it may also serve as a lesson. According to this writer, we are deficient in taste, because we have endeavoured to form ours upon British models; and for the same reason we are deficient in originality, a quality, without which no national literature can exist. Why that should also make us deficient in imaginative powers, I cannot well comprehend, for the powers of the mind are independent of the manner in which they are exercised. But I must leave this to be answered by our Irvings, our Coopers and our Pauldings, and by my amiable friend, the fair author of *Redwood and of Hope Leslie*.

Nothing can be more certain than that if we confine ourselves in any art to the imitation of a particular school, (excellent as it may be,) we shall never be able to have a school of our own. Imitation destroys genius; it narrows the range of our imaginations and the field of our conceptions. That we follow too closely the British models, and that our compositions are not sufficiently stamped with originality, is what I am not prepared to deny, and we cannot too much blame the satirist for giving it the name of *mental dependence*, though the imputation comes with a very ill grace from that quarter.

The reasons which have produced this *mental dependence*, (if it can be so called) are too well known, that I should take up much of your time in explaining them. The similarity of language, the constant influx of British books and literary productions of every description, which are reprinted here as fast as they appear, the natural indolence of man which makes him pursue the object easiest to be gained, in preference often to the most valuable; a long cherished congeniality of manners, habits and literary opinions with the nation whose language we speak, and whose descendants we, or the great majority of us, are; a filial respect, which in spite of parental injuries, is not yet extinguished; all these circumstances together have produced that *mental thralldom* with which we are reproached by those whom it most honors, and from which we are warned by them that it is at least time to free ourselves. The question now occurs, how is this to be done; and it is not difficult of solution. When we were struggling with Great Britain for our political independence what did we do? We sought foreign alliances, and obtained them. I do not mean to say that without their aid we should not have succeeded; but with their aid we did succeed, and in a shorter time than we should otherwise have done; the same course is now to be pursued. Let us seek foreign alliances in the literature and science of other nations than Great Britain, and we may expect similar success.

This idea is not new. It has already been acted upon, and is gradually producing its fruits. Finding at the close of the last war, that our weak efforts were derided by British critics, from whom, on the contrary, we should have expected mild encouragement, it occurred to some patriotic gentlemen in Philadelphia and New York, to seek literary friends on the continent of Europe. A conspiracy was formed that had ramifications

in Boston and elsewhere, to carry that idea into effect. I had the honor to be a member of that conspiracy, which I call by that name, because it was carried on in secret, and was known only by its results. We began with Germany. Correspondences were opened with the literary characters of that land of genius and science. The works of our writers were sent to them, and theirs received in return. Two journals were established; one in English at New York, under the title of "*the German Correspondent*," and another in German, at Philadelphia, under that of *Views of America*, (*Amerikanische Ansichten*.) The object of the former was to make German literature known to our countrymen, that of the latter to make ours known in Germany. At the same time there appeared at Leipzig another periodical publication entirely devoted to this country, and tending to the same end with the two first, entitled "*America described by herself*," (*Amerika dargestellt durch sich selbst*.) These three periodicals lasted little more than one year; the last, however, was followed by another, entitled "*Atlantis*," also published at Leipzig, by a gentleman who is now a respectable member of the medical profession in this city,\* and went through two octavo volumes. Those works produced the desired effect. American productions were fairly reviewed and moderately criticised in the literary journals at Halle, Göttingen, Leipzig and other places, and even at Vienna. Several of them received the honor of a translation into the German language. About the same time when this conspiracy was formed, Harvard university sent some of her most promising pupils to complete their education in Germany, whence they returned fraught with knowledge, which enabled them to take their stations in the first ranks of our society.

Thus we first sought and obtained aid among the enlightened Germans, whose language and literature are most congenial to our own. France needed not to be sought, she met us of her own accord in the fields of literature and science; she extended to us her friendly hand, and showed herself the faithful ally in arts, that she had formerly been in arms; of this her scientific and literary journals bear ample testimony †. There the works of American authors have always been respectfully noticed, criticised with candour and fairness, and with the delicacy peculiar to that intelligent and amiable people; but never with the stern brow of insolent superiority, or the bitterness of contemptuous satire. Other nations followed the example of Germany and France, and we found friends every where through the whole extent of the European continent.

As to Great Britain, those of that nation whose good opinion is worth having, the men of elevated minds, have done justice to our efforts; but the vulgar herd of writers, abandoning France, which they so long delighted to misrepresent, have selected us as the object of their unmanly attacks, of which I have shown you a striking instance, which I would not have noticed, if it had not been so immediately connected with my subject; showing the necessity of extending our views more and more beyond the limits of British literature, as the best answer we can give to those who affect to consider us as their humble imitators. Not that I mean to say that the literature of Great Britain is not worthy of imitation; no man is more sensible than I am of its merits. The works of her great poets and prose writers have delighted my youthful days, affording a pleasing relaxation from the labours of my maturer years, and at this moment are the solace of my old age. I hope we shall never cease to read, study and admire their immortal works, and that our writers will strive to catch some sparks at least of their genius and of

\* Dr. E. F. Rivinus.

† Those who have been in the habit of reading the *Revue Encyclopedique* and the *Bulletin des Sciences*, edited by Baron Ferrussac, know with what respect American works have been noticed in those publications.

their spirit, without descending to a servile imitation of their language or of their manner.

There is, after all, nothing so difficult for nations who speak the same language, as to imitate the literary productions of each other; imitation here degenerates into plagiarism, for you can hardly adopt the ideas of a writer without adopting also the language in which he has clothed them; and if you endeavour to express them in other words, you weaken the force of the expression, and produce only a faint copy of a bright original. It is not so when you borrow the ideas of an author who has written in a language different from your own. This kind of imitation has been allowed among all nations in all ages. Thus Virgil imitated Homer, and Terence imitated Menander. We love to see Catullus imitated with so much success by Ariosto and Tasso.\* To imitation we owe some of the noblest flights of the British muse. Spenser imitated Petrarch; Milton drank deep at the fount of the Italian Muse. Pope imitated Horace and Boileau; Johnson imitated Juvenal.† The charming love elegies of Hammond are little more than a translation of Tibullus. All this is considered fair and legitimate; but let any one try to clothe those or any other English poems in another English dress, he will find a miserable result, and will be called a plagiarist for his pains.

Take, for instance, this so often repeated line in Pope, in his *Essay on Man*,

An honest man 's the noblest work of God,  
and try to render the idea that it expresses in other English words, in verse or in prose. You will infallibly fail in every attempt. But suppose Pope had written in French, and expressed himself thus:

Le chef d'œuvre du ciel est un homme de bien,  
you might have rendered the idea in English in the words that he has used, and the poetry would have been your own.

Thus Milton adopted the beautiful idea of Dante, who inscribes over the gate that leads to the infernal regions:

Lasciate ogni speranza, voi ch'intrate.

The English poet, in describing hell, says,

—Hope never comes,

That comes to all——

Thus Spenser has received well-deserved praise for his charming sonnet:

Sweet warrior, when shall I have peace with you?

although the idea is taken from the well known sonnet of Petrarch:

Mille fiate, O dolce mia guerrera  
Per aver co' begli occhi vostri pace, &c.

The imitator here has surpassed his model.

Thus Hammond has rendered, though not so happily, the delightful lines of Tibullus:

Te spectem, suprema mihi cum venerit hora,  
Te teneam moriens, deficiente manu.

On her I'll gaze when other loves are o'er,  
And dying press her with my clay-cold hand.

\* I allude here to the beautiful simile of the Latin poet.

Ut flos in septis secretus nascitur hortis, &c.

Catul. lxii. *Carmen Nupt.*

Imitated by Ariosto, in *Orl. Fur.* Canto i. st. 42.

La verginella e simile alla rosa, &c.

And by Tasso, in *Gerus. Lib.* Canto xvi. st. 14.

Deh! mira, (cgli cantò,) spuntar la rosa, &c.

Which Gira has indelicately parodied in the *Beggar's Opera*, Act. i.

Virgins are like the fair flow'r in his lustre, &c.

† In his poem called *London*

It is lawful for you to follow the example of those British writers, by sucking, like the bee, the flowers of the literature of other nations, and bringing the sweet juices to the hive of your own language, where you will work them up into delicious honey. Thus, when you read in Schiller's *Wallenstein* the description of peace suddenly proclaimed at the head of an army long harassed with the fatigues of a bloody war, when you hear Max Piccolomini describe the soldiers returning joyful to their homes, their hats adorned with green boughs, the *last plunder of the fields*, (dem letzten Raub der Felder,) you may safely transfer the sublime idea into our language; you will have enriched our literature and acquired honour to yourselves and to our country. Or if you read Bürger's charming translation of the *Peregrinum Feneris*.\*

Morgen liebe, wer die Liebe

Schon gekannt;

Morgen liebe, wer die Liebe

Nie empfand.

You will be tempted to say after him in your own language,

To-morrow let him love, who love

Felt so true;

To-morrow let him love, who love

Never knew.

And when you wish to describe a once beautiful virgin, now pale and disfigured, sinking under the pangs of ill required love, you will not repeat Shakspeare's admirable, indeed, but trite simile of "patience on a monument, smiling at grief;" but you may lawfully exclaim with the Italian poet:†

Appena si può dir, questa fu rosa,

And you can hardly say this was a rose.

You may also comfort an afflicted friend, bewailing the loss of a beloved infant daughter, in the words of the French poet, Malherbe:

Et rose, elle a vécu ce que vivent les roses,

L'espace d'un matin.

A rose, she lived the time that roses live,

The morning of a day.

In Spanish literature you will also find much to imitate, but I have not time at present to cite examples.

The field is immense, and very far yet from being exhausted. Let other nations honourably steal the beauties of English poetry, and make them their own by transplanting them, if I may say so, into their own soil; the time will come when they will seek your fields, and gather treasures there to carry home.

Permit me to show you what advantage a nation gains, what even unmerited glory it acquires by a familiar acquaintance with a foreign literature. You all remember the beautiful lines of Voltaire in his tragedy of *Alzire*.

Des Dieux que nous servons connais la différence,  
Les tiens t'ont commandé le meurtre et la vengeance,  
Et le mien, quand ton bras vient de m'assassiner,  
M'ordonne de te plaindre et de te pardonner.

You know also how much these lines have been applauded by the French and other European critics, and how often they are cited in praise of the French poet; but what, perhaps, you do not know, is, that he is only entitled to the honour of the versification, and that the idea is borrowed from the English poet Rowe, in his tragedy of *Tamerlane*.

Now learn the difference 'twixt thy faith and mine,  
Thine bids thee lift the dagger to my breast,  
Mine bids thee live.

\* Cras amet qui nunquam amavit; quique amavit cras amet.

† Guarini,

The sublime sentiment which these words convey is more briefly and more happily expressed by the English than by the French poet, yet I do not remember that credit has been given for it to the former. But Rowe was an obscure writer in comparison to Voltaire, and the author of *Alzire* has alone enjoyed the glory which in justice belonged to the author of *Tamerlane*.

These, gentlemen, are a few among the many reasons that I might adduce, if time permitted, in favour of cultivating more and more the literature of continental Europe. You will not expect that I should give you here a dissertation on the peculiar merits of that of each different nation, that I should treat you with an abridgement of the works of Bouterwek on general literature, of Laharpe and Chénier on that of France, of Muratori and Maffei on that of Italy, of Schlegel and De Stael on that of Germany, and of Bouterwek again, or of our own Ticknor, on that of Spain. I do not come here to instruct, but to encourage and excite you. Nor do you want the little instruction that I could give. I would rather expect to receive it from you. The existence of this association, the zeal that you have displayed in the promotion of its object, the general approbation which our institution has received from society at large, and the liberal support which it has hitherto obtained, and there is no doubt will continue to obtain, afford sufficient proof that we are not such strangers to the literature of other nations, as some ignorant or prejudiced writers would fain make the world believe.

I have heard it objected, that if we turn our attention too much to foreign literature, we are in danger of impairing the purity of our language, by the introduction of foreign words and modes of speech. I do not think the danger lies there. Language can only be corrupted by a want of taste, but our taste will be improved by the study of the great writers of France, Italy, Germany and Spain. Horace did not think that the Latin idiom could be corrupted by the reading of the Greek models when he recommended their daily and nightly perusal to the scholars of his day.

— vos exemplaria Græca

Nocturnâ versate manu, versate diurnâ.

No, gentlemen, the corruption of languages is the fruit of vulgarity and ignorance; knowledge, on the contrary, improves whatever it touches. Our language may be enriched by the study which I recommend; it can never be corrupted.

We have been repeatedly accused by modern British writers, of impairing the purity of our common idiom. A few words and modes of speech peculiar to this country, have been and are every day cited with affectation by critics and travellers in proof of that assertion. I cannot omit this opportunity of showing the falsity of the accusation. Permit me to address you a few words upon the subject, and to conclude this address by proving to you that there is much greater danger of the English language being corrupted on the other side of the Atlantic than in the United States.

Mr. Bulwer, in his interesting work, entitled "*England and the English*," has justly observed that "the English of the present day are not the English of twenty years ago." The same observation may be with equal truth applied to the language. The English of this day is not the same that it was twenty years ago, much less what it was at the time of our separation from Great Britain.

It is now about sixty years since that separation took place. The language which at that time was spoken and written, both in England and in this country, which was then and has since remained our own, was that of Addison and Steele, Shakespeare and Milton, Pope and Dryden, Thompson and Young, Churchill and Cowper. Has it remained the same since that time? By no means; it has on the contrary undergone great changes, not in America, as I shall show, but in Great

Britain. In this country it has remained nearly stationary, Franklin and Washington Irving have both been justly praised for writing the English language with the purity of the Addisonian age. I fear they are *ulimi Romanorum*.

But let us see what changes the English language has undergone since the period of our revolution, and how and where they have been introduced during that time. Johnson's Dictionary was then the standard repository of the words of which it is composed. A new edition of that work has been since published by Mr. Todd, containing by his own statement several thousand additional words. Where do these thousands of words come from? It is but just to suppose that some of them may be legitimate terms, which Johnson had omitted to insert in his Dictionary. I will also admit that many of them if they were not English at the time of our revolution, still deserve to be so, and may have been with great impropriety introduced into the language; but if Great Britain claims the privilege of introducing in the course of sixty years, thousands of words into the Dictionary, why should we not claim the same right? It is too well known that English Dictionary makers, to show their industry, will take words, good or bad, from any obscure writer and add them to their list; and it is known also that Lexicographers cannot at the present time follow the progress of innovation, and that new words are constantly employed in modern publications, which cannot be found in their compilations. I appeal to the readers of the London and Edinburgh Reviews and Magazines and most of the modern English publications in Europe in proof of the truth of this assertion.

I am willing to admit that every change in language does not necessarily imply its corruption. But if we compare the words that may be called "*Americanisms*" with the modern Anglicisms of great Britain, we shall find that they have no right to boast of a taste in innovation superior to our own.

The words that have been introduced into the language in America, before or since the revolution, mostly, as our learned countrymen, Mr. Pickering, has sufficiently proved, old English words that we have not thought proper to discard, are so few that they may be easily numbered. We call a *shop* a *store*, an *inn* a *tavern*.—We say that a tedious discourse is *lengthy*: we distinguish almost every thing that pleases by the epithet *clever*; we call a woman of talents a *fine* woman; we *test* by facts the truth of an assertion; we *advocate* a cause, and when we are *advancing* towards the attainment of an object, we say with Shakespeare that we *progress*. These, with a few more, which do not at present occur, are the whole of our innovations in language; for I do not mean to speak of vulgarisms and provincialisms, confined to the spoken idiom, which abound much more in England than in this country. I may say with truth, that this is "the whole head and front of our offending."

In England, on the contrary, the mass of newfangled words introduced within the last twenty years is truly frightful. I may say they are innumerable. There we find *withdrawal*, with its horrid hiatus, *educational*,\* *talented*,† *announcement*, *compromise*, instead of *commit*; to *accord*, instead of *to grant*; *tuition* for *instruction*, *hilarious*, *ubiquitous*, *ubiquitously*, *obsoletism*, *expenditure*, *obsolescence*, *kibing the heels of a person*, *toggery*, *transmogrify*, and an immense number of similar words which I have neither time nor patience to enumerate; we have also the neutral verb *to grow* changed into an active verb; the fashionable phrase is to *grow* instead of *to raise*, and a *grower* instead of a *cultivator* of wheat. We have to *be done*, instead of *to have done*.‡ And,

\* Edinb. Rev. Oct. 1833.

† Ibid.

‡ Ibid. p. 162. I abstain from quoting authorities for the other words, all taken from British publications—Some are from *Cyril Thornton and Men and Manners in America*.

what is worse than all, we have the newly invented phrase that a house is *being* built instead of *is building*. This is a distortion, not an improvement of language. It adds nothing to its force or to its clearness, but unnecessarily detracts from its characteristic brevity.

I know we have adopted many of those English innovations, and I wish we had done it with more discernment.\* But this is the consequence of too exclusive an attachment to British literature. It shows the importance, I may say the necessity, of our association

But innovations, drawn *ex visceribus*, from the bowels of the language, might be borne with, while the introduction of foreign words and locutions, unless necessary and judiciously adapted to the stock on which they are grafted, is to be constantly deprecated. In this the English have of late years indulged themselves to an extent that is truly surprising. I shall not speak of the numerous Scotticisms with which the delightful poetry of Sir Walter Scott is disfigured, but only of the immense number of French words and phrases with which the English language is at this moment patched, without the least regard to the harmony or the analogy of the idiom. A second Norman invasion is taking place, and the French language seems to be migrating in a body into the English. Many a modern English book cannot be understood without a previous knowledge of the language of France. This Gallomania prevails everywhere; not only in the new-papers, magazines, reviews, novels, books of travels, which from their extensive circulation are most apt to corrupt the idiom, but also in works of higher pretensions.† The language of Great Britain is fast diverging from that of America, and the time is approaching when English books, like some of Sir Walter Scott's poems will require a glossary to be read in this country.

Let me not be understood as if I meant here to depreciate the French language, which I would hardly do, when encouraging you to study French literature. The French language is beautiful in its place, in the works of the French poets and prose writers. But it will with difficulty amalgamate with our own. Its sounds are foreign to our ears, and its orthography to our eyes. It requires great judgment and great delicacy of taste to make an English out of a French word.

But modern English writers do not seem to understand this. The author of *Men and Manners in America* is particularly remarkable for his Anglo-French jargon. In his novel of Cyril Thornton, I have counted from forty to fifty different French words and phrases, awkwardly interlarded with his English, before I got through half of the first duodecimo volume. There you find *fauteuil*, *nonchalance*, *sobriquet*, *menage*, *parvenu*, and a number of other words used as if they were English, without any thing to indicate their foreign origin; you read of an *oreille d'ours* coloured silk gown, of the *bouleversement* of horses and riders, of a lady assuming a *riant* manner, and many more such, if not good French, at least, as the Germans would say, *un-English* expressions, scattered without judgment and without taste. When I first read of the *riant* manner, which I pronounced *ri-ant*, as a common English word, I was greatly at a loss to find out its meaning; at last I tried it by the French pronunciation, and came à *bonté* to understand it.

\* The fact is, that most of the words that I have cited, whether as Americanisms or as Anglicisms, are more or less in use in both countries, which are constantly acting and re-acting on one another. Even the word *lengthy*, with which we are so often reproached, is to be found in the official despatch of Capt. Pring, of the British navy, giving an account to his superior officer, of McDonough's victory on Lake Champlain, in 1814.

† Lord Dover's History of Frederick II. of Prussia, might easily be taken for a translation from the French, by a person ignorant of the English language.

‡ Modern English for *I succeeded*.

I regret to say that a much superior writer, Mr. Bulwer, has fallen into the same error, in his "England and English." At least his French words appear printed in Italics. But when you read in his book of the *London grands seigneurs*, of the dandy *clique*, of a person *à la mode*, of a *maison de jeu* morality, of a Lord Mute, who is an English *élégante*, (the last word, as usual, in the feminine instead of the masculine gender,) you cannot help regretting that so respectable an author should have fallen into this (to say the least of it) unpardonable affectation; and you may judge of the extent to which the contagion has advanced in the country in which he lives. May we not, then, apply here to the British nation, the well known line of the satirist,

Quis tulerit Gracchos de seditione quærentes?

In this manner, I think, I have sufficiently proved, that the danger of the English language becoming corrupted, is not on our side of the Atlantic; but that when it degenerates, (which I fear it has begun to do,) the cause will be to be looked for in the island of Great Britain.

The English language, like all human things, must one day perish. Pride may revolt at the idea, but it is not less an undeniable truth. The poet Dante, in one of his Visions of Paradise, tells us of a conversation that he had with Adam, the father of mankind. He asked him what had become of the language which he spoke in the garden of Eden? "It has perished," answered the patriarch; "every thing that is human must perish; heaven alone shall last for ever."

La lingua ch'io parlai fu tutta spenta  
Innanzi che all'ovra inconsumabile  
Fosse la gente di Nembrotte attenta:  
Che nullo affetto mai ragionabile  
Per lo piacere uman, che rinnovella  
Seguendo'l cielo, sempre fu durabile.\*

Thus the primitive language has perished; it is in vain (whatever Grotius may have imagined) to seek for traces of it any where. The languages of Memphis, Babylon and Carthage, realms so celebrated in history, have perished, and the written memorials of them that still remain, mock the science of Philologists. The English language, therefore, and all that it has produced, are doomed to experience the same fate. But it will first perish in the old world, and it will live on this continent many centuries after it shall have been extinguished in Europe.

I find no difficulty in proving this assertion. Wherever our steps may guide us, from the Gulf of St. Lawrence to the Gulf of Mexico; from the Atlantic to the Pacific ocean, we find the English language spoken, not in dialects, as in Europe, but pure and with but few local peculiarities. There is here no Gaelic or Cimbro-Celtic, no highland or lowland Scotch, no Yorkshire, Lancashire or Somersetshire jargon, but every where a uniformity of idiom. On the contrary, the English cannot travel twenty miles from their sea-girt shores without meeting a foreign tongue, and they are constantly visited by the Polyglot inhabitants of the continent. Their own people, on the other hand, migrate every year, by thousands, to the neighbouring shores of France, by which means, as I have shown you, their language has already begun to be corrupted, and will so continue, until the old English tongue shall have been merged into some other: here it will be preserved pure, or if, as it cannot be avoided, it undergoes changes, those will be only variations of the original tongue, unmingled with foreign dialects, and it will, as long as it lasts, remain an English branch of an English stock.

In the mean time it is the duty and the interest of both nations, to retard as much as possible the dissolution of the English language in any part of the world.

\* *Paradiso*, Canto xxvi.

It is not for me to point out what Great Britain ought to do to attain that most desirable end; but I am at liberty to say what I think ought to be done in this country, with a view to the same object; we ought, in the first place, to adopt no new words or phrases from the other side of the Atlantic, but such as are English in their sound and in their structure; such as bear a close analogy to our language, and are in harmony with it; nor ought we to adopt even those, without evident necessity, or where they really add beauty or force to the expression of ideas. We should hold up a mirror to Great Britain, in which she might see her beautiful language reflected in its purity, and free from the barbarisms which of late years she has too easily suffered to be introduced into it. The greatest defect in the English idiom is its anomalies, and they ought not to be increased.

The study of the languages of continental Europe, instead of impeding, will aid you in this design. In the French, German, Italian and Spanish, as in the Latin and Greek, you will see homogeneous idioms, and you will learn to mould your own, as much as possible, on the same plan. You will always keep before your eyes the great models of a former age, and you will let modern British writers strike whatever devious course they may think proper. It is not words, but ideas, that you will look for in foreign writers; the latter will enrich and elevate your minds, the former could serve but as masquerade dresses to your own thoughts, and those, I hope, will not require to be thus disguised.—You will produce them in their own decent English garb, the only means by which you may convey them to your latest posterity.

I should have much more to tell you, gentlemen, on this inexhaustible subject. But time presses, and I have already trespassed too much on your kind attention. If I have convinced those who hear me, that from natural causes which I have endeavoured to explain, the noble language of our country; the language in which our independence was declared, and in which Washington, Adams, Jefferson, and so many other illustrious citizens recorded their virtuous and patriotic sentiments, and proclaimed the principles of American freedom to an admiring world; that that language is committed to your guardianship, to be preserved pure as we found it at the time of our separation from Great Britain, and free from the inroads which foreign idioms are making upon it in Europe; if I have sufficiently proved that the surest means to attain that end, is to wean ourselves from too exclusive an attachment to English literature, and to extend the circle of our ideas beyond its limits, by forming a close acquaintance with the works of the great masters who have illumined the European continent, who have scattered floods of light upon Great Britain herself, and inspired her poets and prose writers with some of the sublimest flights of their genius, I shall have done all that is in the power of my weak abilities to show the importance of our institution, and to induce all who are desirous of promoting the honour of our country, and its advancement in literature and science, to unite in supporting it.

## LAND TITLES.

(Continued from page 72.)

In the lessee of Thomas Buchanan v. Adam Meyer, Westmoreland, November, 1803, before Yeates and Smith, Justices, (MSS. Reports.)

Ejectment for 400 acres of land, in Buffalo township Armstrong county, within the jurisdiction of Westmoreland county.

The plaintiff claimed under a warrant for lands across the Allegheny, dated 5d of February 1794. And a survey of 405 acres 112 perches made thereon, 19th of April 1795.

It appeared that no person was settled on the land at the time of the plaintiff's survey. On the 1st of June

1797, a surveyor was employed to trace the lines, but was threatened by defendant, that he would cripple him if he did not desist. He held a gun in his hand, which he cocked, and declared he would shoot any one who would attempt to settle on the lands in question. By these means several persons were intimidated from going on the lands to make a settlement.

It was charged by the court, that there having been no actual settlement anterior to the plaintiff's survey, the plaintiff's title must prevail, unless it has been avoided by his non-performance of the condition of settlement, and improvement. But who has prevented this performance? Who expects to derive a benefit from this improper conduct? The answer is, the defendant. If we count the period from which the settlement is to commence, from the 22d of December 1795, the ratification of the treaty at Fort Grenville, the defendant has, within the time allowed for making the settlement, obstructed the plaintiff or his agents, from complying with the law, and according to all our decisions, shall reap no advantage therefrom. If the case was even dubious, the defendant's lawless conduct should postpone him, on principles of general policy and safety. Verdict for the plaintiff, *instanter*.

And, in the lessee of Jones v. Anderson and others, the same principle was held, and it was determined, That the adverse possession of an actual settler, within the time allowed to the warrantee to make his settlement, is *ipso facto* a prevention.—And also, that the entry of an actual settler is not *congeable* on a supposed default, without a vacating warrant or application, which must be taken out before suit brought, otherwise, they cannot be admitted in evidence on the trial. In the supreme court, September term, 1808. (MSS. Reports.) The latter point was decided in the same way, by Yeates, J. in Shippen's lessee v. Auchenbach, at Beaver, September 1806 (MSS. Reports.)

No beneficial consequences were experienced from the proceedings at Sunbury, although certain principles were laid down by the court, no one particular title was settled. But every case would, of course, depend upon the fact and circumstances attending it. The object of the act was unfulfilled, law suits were not prevented; nor was the act itself considered in a favorable point of view. It could have no operative, or binding force or effect. The Holland company being foreigners, had recourse to the courts of the United States, and from their ultimate decision there is no appeal. The subject has therefore become more embarrassed; and the great question arising out of the proviso in the 9th section of the act of April 1792, has been solemnly decided in the supreme court of the United States, adverse to the sentiments of the legislature and the decisions of our own courts. The work must exhibit every case, with all its features. It has no partial bearings. It is intended for the people, that they may be informed, not only of the existing laws which govern them, as the legislature has written them; but of judicial constructions upon them.

While these suits were depending in the circuit court of the United States, the legislature on the 3d of April 1804, passed an act, entitled "An act for ascertaining the right of this state to certain lands lying north and west of the rivers Ohio and Allegheny, and Conewango creek." (Chap. 2503.)

It enacts, "that applications of actual settlers under the act of 3d of April 1792, (north &c.) describing particularly the lands applied for, and filed with the secretary of the Land Office, vouching such other requisites as provided for by the act of 22d of September, 1794, (which will hereafter be noticed,) shall for two years from and after the passing of this act, entitle the applicant, his heirs and assigns, to all the privileges and benefits, that an original or vacating warrant would entitle them to, and on the trial of all suits brought, or to be brought between warrantees, and actual settlers,

concerning lands situate as aforesaid, the actual settler shall be permitted to plead, and make proof of his improvement and residence, as fully, and with equal force and effect, as if such settler had obtained a vacating warrant; but nothing in this act contained shall be construed to impair any contract or agreement, nor to alter the legal or equitable claims of any person or persons to said lands, nor to release said lands from the conditions of settlement, residence, improvement, purchase money and interest, required by the aforesaid act of 3d of April, 1792, nor to the granting of lands heretofore reserved or appropriated by law.

Sect. 2. Empowers the governor to employ counsel to attend to the interests of the state, in suits commenced, or to be commenced, or which shall be ready for trial at the next April, or any succeeding term, in the circuit court of the United States, &c.

The result of this is now to be stated.

In the circuit court, Pennsylvania district, April term, 1805.

Huiskoper's lessee v. Douglas, 4 Dallas, 392.

Ejectment for a tract of land lying north and west &c. Plaintiff claimed under the Holland company, to whom a patent was issued, upon a warrant and survey. The defendant claimed as an actual settler, under the act of 3d of April, 1792; a great many ejectments were depending on the same facts and principles, and on the trial of another ejectment, at a former term, Washington, J. had delivered a charge to the jury, coinciding, generally, with the construction given by the supreme court of Pennsylvania, to the act of April, 1792, from which judge Peters dissented. It was therefore determined to submit the questions, upon which the opinions of the judges were opposed, to the supreme court of the United States, under the provision made, in case of such a disagreement, by the act of Congress, of the 29th of April, 1802. The questions were accordingly stated, at the preceding October term, in the following form

"1st. Whether under the act of the legislature of Pennsylvania, passed on the 3d day of April, 1792, entitled "An act for the sale of the vacant lands within this commonwealth" the grantee, by warrant, of a tract of land lying "north and west of the rivers Ohio and Allegheny and Conewago creek, who, by force of arms of the enemies of the United States, was prevented from settling and improving the said land, and from residing thereon, from the 10th day of April, 1793, the day of the said warrant, until the first day of January, 1796, but who, during the said period, persisted in his endeavors to make such settlement and residence, is excused from making such actual settlement, as the enacting clause of the 9th section of the said law prescribes to vest a title in the said grantee."

"2d. Whether a warrant for a tract of land lying north and west, &c. granted in the year 1793, under and by virtue of the said act of 3d of April, 1792, to a person, who by force of arms of the enemies of the United States, was prevented from settling and improving the said land, and from residing thereon, from the date of the said warrant, until the 1st of January, 1796, but who, during the said period, persisted in his endeavors to make such settlement, and residence, vests any, and if any, what title in, or to the said land, unless the said grantee shall, after the said prevention ceases, commence, and within the space of two years thereafter, clear, fence and cultivate, at least two acres for every hundred acres contained in his said survey, erect thereon a messuage for the habitation of man, and reside or cause a family to reside thereon, for the space of five years next following his first settling of the same, the said grantee being yet in full life."

"3d. Whether a grantee in such warrant as aforesaid, who has failed to make such settlement, as the enacting clause of the said ninth section requires, and who is not within the benefit of the proviso, has thereby forfeited his right and title to the said land, until

the commonwealth has taken advantage of the said forfeiture, so as to prevent the said grantee from recovering the said land in ejectment, against a person, who, at any time after the two years from the time the prevention ceased, or at any subsequent period, has settled and improved the said land, and has ever since been in possession of the same."

After argument, the opinion of the court was delivered by chief justice Marshall, in the following manner.

The questions which occurred in this case, in the circuit court of Pennsylvania, and on which the opinion of this court is required, grow out of the act passed by the legislature of that state, entitled "An act for the sale of the vacant lands within this commonwealth."

The 9th section of that act, on which the case principally depends, is in these words "See it before cited at large."

The questions to be considered relate particularly to the proviso of this section; but, to construe that correctly, it will be necessary to understand the enacting clause, which states what is to be performed by the purchaser of a warrant, before the title to the lands described therein, shall vest in him.

Two classes of purchasers are contemplated.

The one has already performed every condition of the sale, and is about to pay the consideration money; the other pays the consideration money in the first instance, and is, afterwards, to perform the conditions. They are both described in the same sentence, and from each, an actual settlement is required as indispensable to the completion of the title. In describing this actual settlement, it is declared that it shall be made, in the case of a warrant previously granted, within two years next after the date of such warrant, "by clearing, fencing and cultivating at least two acres for every hundred acres contained in one survey, erecting thereon a messuage for the habitation of man, and residing, or causing a family to reside thereon for the space of five years next following his first settling of the same, if he or she shall so long live."

The manifest impossibility of completing a residence of five years within the space of two years, would lead to an opinion, that the part of the descriptions relative to residence, applied to those only who had performed the condition before the payment of the purchase money, and not to those who were to perform it afterwards. But there are subsequent parts of the act, which will not admit of this construction, and consequently residence is a condition required from the person who settles under a warrant, as well as from one who entitles himself to a warrant by his settlement.

The law, requiring two repugnant and incompatible things, is incapable of receiving a literal construction, and I must sustain some change of language, to be rendered intelligible. This change however, ought to be as small as possible, and with a view to the sense of the legislature, as manifested by themselves. The reading suggested by the counsel for the plaintiff, appears to be most reasonable, and to comport best with the general language of the section, and with the nature of the subject. It is by changing the participle into the future sense of the verb, and instead of "and residing, or causing a family to reside thereon," reading, and shall reside, &c. The effect of this correction of language will be to destroy the repugnancy which exists in the act as it stands, and to reconcile this part of the sentence to that which immediately follows, and which absolutely demonstrates that, in the view of the legislature the settlement and the residence consequent thereon, were distinct parts of the condition; the settlement to be made within two years from the date of the warrant, and the residence in five years from the commencement of the settlement.

This construction is the more necessary, because the very words "such actual settlement and residence,"

which proves that residence is required from the warrantee, prove, also, that settlement and residence, are in contemplation of the law, distinct operations. In the nature of things, and from the usual import of the words, they are, also, distinct. To make a settlement, no more requires a residence of five, than a residence of five hundred years; and, of consequence, it is much more reasonable to understand the legislature as requiring the residence for that term, in addition to a settlement, than as declaring it to be a component part of a settlement.

The meaning of the terms, settlement and residence being understood, the court will proceed to consider the proviso.

That part of the act treats of an actual settler, under which term is intended as well the person who makes his settlement the foundation of his claim to a warrant, as a warrantee, who had made an actual settlement in performance of the conditions annexed to his purchase, and if "any grantee in any such original or succeeding warrant," who must be considered as contradistinguished from one who had made an actual settlement. Persons thus distinctly circumstanced, are brought together in the same sentence, and terms are used appropriated to the situation of each, but not applicable to both. Thus, the idea of "an actual settler," "prevented from making an actual settlement," and after "being driven therefrom," "persisting in his endeavors" to make it, would be absurd. To apply to each class of purchasers, all parts of the proviso, would involve a contradiction in terms. Under such circumstances, the plain and natural mode of construing the act, is to apply the provisions, distributively, to the description of persons to whom they are adapted, *reddendo singula singulis*. The proviso, then, would read thus, "Provided, that if any such actual settler, shall be driven from his settlement, by force of arms of the enemies of the United States, or any grantee, in any such original or succeeding warrant, shall by force of arms of the enemies of the United States, be prevented from making such actual settlement, and shall persist in his endeavors to make such actual settlement as aforesaid, then, in either case, he and his heirs shall be entitled to have, and to hold the said lands, in the same manner as if the actual settlement had been made and continued." The two cases are the actual settler, who has been driven from his settlement, and the warrantee, who has been prevented from making a settlement, but has persisted in his endeavors to make one.

It is perfectly clear, that in each case, the proviso substitutes something for the settlement to be made within two years, from the date of the warrant, and for the residence to continue five years, from the commencement of the settlement, both of which were required in the enacting clause. What is that something?

The proviso answers, that in case of "an actual settler," it is his being "driven from his settlement, by force of arms of the enemies of the United States;" and in case of his being a grantee of a warrant, not having settled, it is his "persisting in his endeavors to make such actual settlement." In neither case is residence, or persisting in his endeavors at residence, required. Yet the legislature had not forgotten, that by the enacting clause, residence was to be added to settlement, for in the same sentence they say, that the person who comes within the proviso, shall hold the land "as if the actual settlement had been made and continued."

It is contended on the part of the defendant, that as the time, during which persistence shall continue, is not prescribed, the person claiming the land, must persist until he shall have effected both his settlement and residence, as required by the enacting clause of the act; that is, that the proviso dispenses with the time, and only with the time, during which the condition is to be performed.

But the words are not only inapt for the expression of such an intent; they absolutely contradict it.

If the proviso be read so as to be intelligible, it requires nothing from the actual settler who has been driven from his settlement. He is not to persist in his endeavors at residence, or in other words, to continue his settlement, but is to hold the land. From the warrantee who has been prevented from making a settlement, no endeavors at residence are required. He is to "persist in his endeavors," not to make and to continue such actual settlement, but "to make such actual settlement as aforesaid." And if he does persist in those endeavors, he is to hold the land "as if the actual settlement had been made and continued." The construction of the defendant would make the legislature say, in substance, that if the warrantee shall persist in endeavoring to accomplish a particular object, until he does accomplish it, he should hold the land as if he had accomplished it. But independent of the improbability that the intention to dispense only with the time, in which the condition was to be performed, would be expressed in the language which has been noticed, there are terms used, which seem to restrict the time, during which a persistence in endeavors is required. The warrantee is to persist in his endeavors "to make such actual settlement as aforesaid." Now, "such actual settlement as aforesaid," is an actual settlement within two years from the date of the warrant, and as it could only be made within two years, a persistence in endeavoring to make it, could only continue for that time.

If after being prevented from making an actual settlement, and persisting in endeavors, those endeavors should be successful within the two years, after which the person should be driven off, it is asked what would be his situation?

The answer is a plain one. By persisting he has become an actual settler, and the part of the proviso which applies to actual settlers protects him.

If after the two years he should be driven off, he is still protected. The application of external violence dispenses with residence. The court feels itself bound to say so, because the proviso contains a substitute, which in such a state of things shall be received instead of a performance of the conditions required by the enacting clause; and of that substitute, residence forms no part.

In a great variety of forms, and with great strength, it has been argued, that the settlement of the country was the great object of the act; and that the construction of the plaintiff would defeat that object.

That the exclusive object of an act to give lands to settlers, would be the settlement of the country, will be admitted; but that an act to sell lands to settlers must have for its exclusive object the settlement of the country, cannot be so readily conceded. In attempting to procure settlements, the treasury was certainly not forgotten. How far the two objects might be consulted, or how far the one yielded to the other, is only to be inferred from the words in which the legislative intention has been expressed. How far the legislature may have supposed the people of the district in question, to have been promoted by encouraging actual settlements, though a subsequent residence on them should be rendered impracticable by a foreign enemy, can only be shown by their own language. At any rate, if the legislature has used words dispensing with residence, it is not for the court to say they could not intend it, unless there were concomitant expressions, which should explain those words, in a manner different from their ordinary import. There are other considerations in favour of the construction to which the court is inclined.

This is a contract, and although a State is a party, it ought to be construed according to those well established principles which regulates contracts generally.

The State is in the situation of a person, who holds

forth to the world, the conditions, on which he is willing to sell his property.

If he should couch his propositions in such ambiguous terms that they might be understood differently: in consequence of which sales were to be made, and the purchase money paid, he would come with an ill grace into court to insist on a latent and obscure meaning, which should give him back his property, and permit him to retain the purchase money. All those principles of equity and fair dealing, which constitute the basis of judicial proceedings, require that courts should lean against such a construction.

It being understood that the opinion of the court on the two first questions, has rendered a decision of the third unnecessary, no determination respecting it has been made.

It is directed that the following opinion be certified to the circuit court. 1st. That it is the opinion of this court, that under the act of the legislature of Pennsylvania passed 3d of April, 1792, entitled &c. the grantee, by a warrant, of a tract of land, lying north and west, &c. who by force of arms of the enemies of the United States, was prevented from settling and improving the said land, and from residing thereon from the 10th day of April, 1793, the date of the said warrant, until the 1st of January, 1796, but who during the said period persisted in his endeavors to make such settlement and residence, is excused from making such actual settlement as the enacting clause of the 9th section of the said law prescribes, to vest a title in the said grantee.

2d. That it is the opinion of this court, that a warrant for a tract of land lying north, &c. granted in the year 1793, under and by virtue of an act of the legislature of Pennsylvania, entitled "An act for the sale of the vacant lands within this commonwealth," to a person who by force of arms of the enemies of the United States, was prevented from settling and improving the said land, and from residing thereon from the date of the said warrant, until the 1st of January, 1796; but who, during the said period, persisted in his endeavors to make such settlement and residence, vests in such grantee, a fee simple in said land; although after the said prevention ceased, he did not commence, and, within the space of two years thereafter, clear, fence, and cultivate, at least two acres for every hundred acres contained in his survey for said land, and erect thereon a messuage for the habitation of man, and reside, or cause a family to reside thereon for the space of five years next following his first settling of the same, and said grantee being yet in full life.

(To be continued.)

From the Journal of the Franklin Institute.

### VIADUCT NEAR PETERS' ISLAND.

*Description of a Viaduct near Peters' Island.—By JOHN C. FRAUTWINE, Architect and Engineer, Philadelphia.*

#### THE SITE.

This extensive structure, upon which the Columbia and Philadelphia rail road crosses the river Schuylkill, is situated three miles above the latter city, at the property of the late Judge Peters, on the western, and that of Isaac C. Jones, Esq. on the eastern side. At the site of the bridge, and for some distance above it, the stream preserves an average width of 850 feet, but widens considerably immediately below it. The western shore rises very gradually from the water's edge for about 150 yards, until it arrives at the foot of the high elevation which forms that slope of the river valley, and which the rail road overcomes by means of an inclined plane, and a stationary engine of sixty horse power. On that side, the depth of water under the bridge is only four or five feet, but it increases gradually to within twenty yards of the opposite shore, where it is twenty-two feet. From this latter point the bot-

tom rises very abruptly into the high and precipitous rocky bluff of the eastern slope of the valley. The bed of the river is a soft black mud, overlaying the solid rock to a depth of from four to ten feet.

#### COFFER-DAMS AND MASONRY.

The bridges consists of seven arches, six piers, and two abutments. Five of the arches span 13½ feet each; and the remaining two 12½ feet each, making with the piers, which are thirteen feet broad on top, a total of one thousand and eighteen feet in the clear between the abutments. All the masonry is founded on the solid rock, with the exception of the western abutment and the western pier, both of which stand on dry land, and rest on a firm natural gravel. The founding of the water piers, and of the eastern abutment, whose face extends a little distance into the stream, was effected by means of coffer dams of a very simple construction, suited to their situation, in *slack water*. They were framed one at a time on Peters' Island, (which is a small spot in the middle of the river, about one-eighth of a mile above the bridge,) and after being launched, and towed to their proper position, were well moored, and finally sunk by placing large stones on a temporary platform made for the purpose. The strains caused by the uneven bearings on the rock were in no case sufficient either to rupture the frames, or even to throw them so far out of line as to create much difficulty in driving the piles. Their entire length, including an up-stream salient angle, was about eighty feet; their breadth thirty-four feet.

They were composed of a single row of uprights, one being placed at each of the five angles, and others at intervals of fifteen feet, along both sides, but none at the ends.

Transverse beams, about thirty feet long, extending from side to side, were notched into the uprights, and secured to them by iron dogs.

In order to resist the increased pressure of the water towards the bottom, the vertical distances between these beams decreased gradually from three feet near the surface, to eighteen inches at the rock; they were removed as the piers were built up, and their places supplied by short struts abutting against the masonry.

Outside of the uprights, and in number corresponding to the transverse timbers, were spiked rows of horizontal beams, &c. surrounding the whole dam: over these, the sheeting piles, of three inch pine and hemlock plank, were driven, until their feet rested on the rock, and their heads remained about eighteen inches above high water mark. This operation was performed with perfect ease, the softness of the mud rendering necessary no other instrument than a heavy wooden mallet worked by two men.

The pile planks were properly directed in their descent by a horizontal leading beam, at the top of the frame, and were kept close together at their feet by the usual method of sloping one end. With these precautions they drove kindly, and but little trouble was afterwards experienced from leakage. Gravel was thrown in around the dam, and permitted to form its natural slope, until it reached to within one or two feet of the surface of the water.

Slight as the construction of these dams appeared, the result proved that they were all sufficiently strong for the purpose, except that of the eastern pier, which, being unable to resist the pressure of a twenty two feet head, (or if we include the semi-fluid mud, one of a twenty-eight feet,) failed in consequence, and was afterwards repaired with additional precautions.

As each coffer-dam was sunk, the water was taken out by six or eight common pumps, worked by a steam engine of six horse power, floated on a scow; and the rock, after being cleared of the mud (which was raised in buckets, partly by windlass, and partly by handing it up successive stages,) was properly levelled and stepped off for receiving the foundations of the piers.

The piers at high water mark are sixty feet long, exclusive of the triangular pier-heads, or starlings, and batter both below and above water at three-fourths of an inch to a foot, as high as the skew-back, from which spring the curved ribs of the superstructure.—From the skew back they rise vertically to the level of the chord pieces, which rest on them. Their height above water is thirty-five feet, and their breadth at high water twenty feet. The abutments are thirteen feet thick at their base, and batter externally three-fourths of an inch to a foot, that their faces may accord with those of the piers; internally they are vertical. The western wings form circular segments to a radius of fifty feet, their chord being seventy-nine feet. They are nine feet thick at the face of the abutments, and six feet at their extremities; they finish off by two flights of steps twenty-four feet high; like the abutments, they batter three-fourths of an inch to a foot outside, and are vertical inside; they are surmounted by a coped parapet wall two feet thick. The exterior masonry of both piers and abutments is a very neat hammer dressed rangework, forming a system of alternate headers and stretchers, of which no course is less than twelve inches in thickness, nor any header less than three feet in length. The back-joints, both vertical and horizontal, are at least six inches in width, and are neatly pointed above high water, below which they are laid in Roman cement, extending eight inches back from the face. The material employed is a handsome, compact, gray, gneiss rock, from the extensive quarries at the Falls of Schuylkill, distant two miles above the bridge.

The interior is of rough rubble, varying in size from eight or ten cubic feet, down to a few inches; laid in full mortar, and the interstices completely filled with liquid grout, which was run in as the work was raised, at every twelve or eighteen inches. The filling in is principally from quarries of a very compact black gneiss, opened for the purpose on the eastern edge of the river, at the immediate site of the bridge.

No cramps or chains are inserted into any part of the masonry, it being considered that the large dimensions of the face stones, and the accuracy of their joints, rendered such precautions entirely superfluous. For handling the stones a long pole was planted in each pier near its foundation, and supported a sliding crane, which was moved upwards as the masonry proceeded, and finally was lifted over the top of the pole when the pier was completed, the pole itself being left enclosed in the stone work. The expense of removing the cofferdams being considered greater than the value of the materials composing them, they were permitted to remain round the piers. The total amount of masonry in the bridge is 19,200 perchs.

#### THE SUPERSTRUCTURE.

The putting up of the timber work, which had been already prepared on the ground, was commenced at the western end of the bridge; the abutment and piers on that side having been finished some time in advance of the others. For this purpose a temporary scaffold was erected, to support the wooden superstructure; it consisted merely of slight trestles, varying from twenty-five to sixty feet in height; they were composed principally of ten by twelve timbers, strengthened by a very few transverse longitudinal braces, and placed twenty feet apart. Their legs were sunk into the mud of the river until their feet touched the rock. Notwithstanding the apparent lightness and insecurity of this scaffold, it not only sufficed to sustain the weight of the platform, but also resisted, effectually, the force of several considerable freshets, not did any accident occur upon it from want of strength.

On the upper or transverse beams of these trestles were laid longitudinal timbers, extending from one to another, throughout the entire length of the scaffold; they supported the adjusting or raising blocks, which were merely short rough pieces of timber placed

transversely on top of each other to rectify any inequalities arising from the uneven bearings of the feet of the trestles.

Resting on the blocks, and also on the piers, were laid the chord pieces, to which were applied and attached, in order, the queen posts, poles, braces and curved ribs; after which the scaffold was removed. The settlement consequent on this latter operation, did not amount to half an inch in any arch.

The straining beams, and the straining sills, together with other secondary timbers, were not introduced until after the removal of the scaffold.

The bridge was originally intended for the accommodation of the rail road traffic alone; but in anticipation of a proposed turnpike to cross at the same place, it received an additional breadth sufficient for the purposes of both, at the same time admitting of a foot passage four feet in width between the two. The entire breadth, from out to out of the queen posts, is now forty-nine feet eight inches.

I have never seen Mr. Burr's specification, but have been informed that he attaches his claim of originality only to the carrying of the curved ribs *up into* the truss, and *there* confining them to the king and queen posts; instead of the long practiced method of placing the ribs *below* the other parts of the truss, and attaching them to the *feet* of the queen posts. I apprehend, however, that this is not the case, from the circumstance that both these particulars appear to be united in the bridge built by Grubenman over the Limmat, in Switzerland, as far back as 70 years ago. Be this as it may, however, the departure from the old truss has considerable advantages in particular cases; more especially where it is necessary to keep the roadway as low as possible, and at the same time to elevate all the timbers beyond the reach of floods. It is attended also by a small saving of timber.

But these advantages are unfortunately so far outweighed by the contour of the exterior, that it is but seldom admissible in cases where a *chaste architectural* effect is required. In the present instance no such requisition existed, and the covering was consequently made perfectly plain.

There is probably no wooden bridge in existence, (certainly none of which I have seen the representation,) that can vie in point of beauty with that erected thirty-two years ago by Timothy Palmer, over the Schuylkill, at Market street, Philadelphia,—a circumstance which reflects but little credit on the growing taste of either the builders themselves, or the companies at whose expense the bridges are constructed. So correct an exterior as it exhibits, can never be produced in a large bridge whose floor is placed on the *chord*, instead of the *tangent* of its supporting ribs.

One of the best features of the bridge at Peters' Island is the just proportion of its individual timbers.—With the exception of the floor girders and joists, which are too small, they are generally well adapted to the spans, and would serve as standards for designing those of other dimensions.

So little attention has usually been paid to this particular that in some bridges of even 200 feet span and upwards, the timbers have not equalled in size those of the bridge now in question; on which account several have failed, and thereby rather tended to bring this particular arrangement into unmerited disrepute.

The ribs are cut to the proper curve out of the solid timber, in lengths of twenty-two feet, and are in two separate parts, each eight inches broad by eighteen inches deep at the crown, and twenty-four inches at the springing. These two parts are placed ten inches asunder, so as to permit the king and queen posts, and braces, to pass between them. In depth, the ribs are composed of two beams, placed about one inch apart (to permit a circulation of air,) with blocks of wood inserted at very few feet to keep them separate. At the springing they abut on cast iron plates, one and

one-fourth inch thick. The scarfs of the pieces composing the ribs are shown in plan\* by M, and in side view by N; the half laps are united by two tree nails. Their length is six inches, and they are so placed as to break joint at every eleven feet. The king, and such queen posts as intersect the curved ribs *above the floor*, are so much wider above than below them, as to allow of two shoulders, each two and a half inches broad, by which to rest on them; and, as well as all the other queens, are still further connected to them by wrought iron bolts one inch in diameter. This is a much better plan than the usual one of *bolting only*.

The chords are, (like the ribs,) in two pieces, each eight inches broad by fourteen inches deep, placed one and a half inch apart. Between them pass the queens and kings, which are halved to them at the intersections, and strongly bolted.

The queens are nine by ten inches, except where they rest upon the curved ribs, at which point they are increased by the shoulders to nine by fifteen. Their heads notch into the pole, to which they are further secured by mortise and tenon, through which are driven two tree-nails an inch in diameter.

Between the heads of the queens, and bolted to the under side of the poles, are the straining beams, six by six square at their smaller ends, and six by ten at their butts. At the feet of the queens are inclined straining sills, of plank five inches thick, by ten wide. One end rests on the floor girders, and the other on the chords.

The queen braces are five inches deep by ten wide; the king braces are of the same width, but nine inches in depth. The heads and feet of both are mortised and tenoned, and spiked to the joggles of the king and queen posts. The pole is ten by twelve. A transverse floor girder, nine inches wide, by fifteen deep, is placed behind each queen, to which it is bolted. Every third one of these girders is in a single piece extending entirely across the bridge. They all notch upon the chords, and support floor joists, five inches wide by seven deep, placed two feet apart from centre to centre. On these joists are spiked, transversely of the bridge, the three inch planks, which, on the track appropriated to common travelling, form the floor of the roadway; but which on the rail way track, support longitudinal strings of six by six, to which the iron rail bars are spiked. Between these strings is an additional thickness of plank for the horse-path.

Over each queen post, and notched upon the pole, is a transverse roof girder, six inches wide by twelve deep, confined by long bolts to the heads of the queens.

Horizontal diagonal braces, seven inches by seven, are tenoned in between every two consecutive girders, both in the roof and under the floor. They merely touch each other at their points of crossing, and are provided at their ends with wooden keys for forcing their tenons home into the mortises.

Braces extend from the skew-backs of the piers and abutments, to the point of intersection of the chords with the third queen posts.

At this point also, a wrought iron tie-bar, two inches in diameter, extends across the entire width of the bridge, and is confined by burrs at the outside of the chords.

The side braces are of oak, four by five inches, mortised, tenoned, and spiked, to the queens, and to the roof girders. With the exception of these, and the shingles, all the timber of the superstructure, (amounting to one million and eight hundred thousand feet, board measure,) is of white pine, from the shores of the Susquehanna. All of it that shows above the floor is planed; all below is rough; none of it is finished with that degree of nicety which would have been necessary had the bridge been in the immediate vicinity of the city.—One hundred and sixty thousand shingles, of Carolina

cedar, laid in nine inch courses, were required to cover the roof.

The total weight of iron worked into the timber is, cast, six tons; wrought, ten tons; the former consisting of the abutting plates for the ribs and braces, and of the burrs and washers for the screw bolts; the latter of screw bolts and spikes, and the tie-bars under the floor, at intersections of braces with the chord pieces.

The time that elapsed between the delivery of the rough timber at the site of the bridge, and the passing over of the first cars, was only three months, but at that time, neither the roof, flooring for common travelling, nor weather-boarding were commenced. The studs for the weather-boarding are three inches by four, and are placed vertically, two feet apart, from centre to centre. At their lower ends they are notched two and a half inches upon the chords; higher up they notch slightly on the ribs, and at their upper ends tenon into the projecting feet of the small rafters of the roof, which, for that purpose, are also placed two feet apart. The small rafters foot upon the longitudinal piece, four inches by four, spiked on the upper side of the pole. The projection of the eaves extends two feet six inches beyond the outer line of the queen posts. The weather-boarding is in horizontal courses of three-fourths inch plank, planed on both sides; not tongued and grooved into each other, but merely laid overlapping. No part of the studs, or weather-boarding, is shown in the drawing. The bridge is lighted by large Venetian windows at the sides, two over each pier; and by two skylights over the centre of each span. The superstructure was executed by Jno. P. Babb, of Wilkesbarre, Pennsylvania, by a sub-contractor, under the principals, Dodd, Bishop, and Brittain, who directed their attention more particularly to the masonry. The general superintendence of the work on the part of the state was entrusted to Mr. Frederick Erdman, a gentleman whose extensive practice, and uniform success, in important mechanical undertakings, had rendered him particularly eligible to that duty.

The contract prices were, for masonry \$4 37½ cts. per perch of twenty-five cubic feet; and for superstructure \$30 per lineal foot of bridge platform. These prices include all materials, coffer-dams and workmanship of every description, no allowance whatever being made for extras, except for such additional work, not specified in the contract, as might be particularly ordered by the principal engineer.

#### CONCLUDING REMARKS.

The reader will probably consider that I have occupied him too long by a minute recital of details; but as I am not aware of the publication of any paper descriptive of Burr's bridges, and believe that the deficiencies of many that have been erected might be ascribed principally to that cause, I confidently crave the indulgence of those who have found me tedious, reminding them that my object has been, not so much to present an account of this individual structure, as to furnish useful data to those who, when building for themselves, will not consider the most trifling fact as unimportant. Burr's plan for wooden bridges is perhaps the best now in use; and that at Peters' Island being probably the most correctly proportioned of any yet constructed on that principle, was better calculated than any other for the purposes I had in view.

I should, however, act at variance with my declared motives for writing these pages, were I not to exhibit the defects as well as the excellencies of this important work. They, fortunately, are very few, and will detract in no sensible degree, from the general character for utility so justly ascribed to it.

The insufficiency of the floor girders and joists has been already adverted to. The clear bearing of the former from chord to chord is nineteen feet two inches, and their distance apart varies from nine to twelve feet; any one of them may, in the case of two heavily laden cars passing each other, be obliged to sustain a weight

\* In the Journal are several cuts which we are obliged to omit.

of from six to eight tons, which is certainly too much to be placed on a girder of nine inches by fifteen, and of twenty feet bearing, if the beam is required not to bend somewhat under it. This may easily be remedied by either placing the girders nearer each other, without reference to the queen posts, and permitting the joists to remain as they are; or by retaining the present intervals, and employing larger timbers for both girders and joists. It would be difficult to procure single pieces sufficiently deep for that purpose, but they might readily be constructed of two beams in depth, firmly connected together. The same defect exists in the before mentioned bridge at Market street. The clear bearings of the girders are there eighteen feet; their distance apart, the same; and their dimensions fourteen inches broad by seventeen deep; it was, after some time, found necessary to adopt precautions for strengthening them. Again, the height of the bottom of the roof girders above the rails is but twelve feet; it would have been more agreeable to outside passengers, on high cars, if it had been thirteen or fourteen feet.

The crossing of the stream obliquely, is, when considered in the abstract, a fault of considerable importance; but in this case it was rendered necessary by overruling circumstances, which it would be foreign from the subject to dilate upon at present.

The foot path should have been at least six feet wide.

Lastly, the starlings, or pier heads, to be perfectly effective, should have been carried considerably higher above the surface of the water. Their use is principally tested in times of ice floods, by dividing the ice, and forcing it to glance off from the angles of the piers. But, as they now are, a broad pier face is opposed to the current, whenever the water rises rather higher than usual; and by obstructing the passage of the ice, is calculated to heap it up, and, thereby damming the stream, to endanger the safety of the whole bridge. Fortunately, however, there is but little probability of such an occurrence taking place, for the increased width of the stream at, and below, the site, allows the ice, (which is in some measure broken up by the island,) to expand itself over a larger surface than it occupied above the bridge, and thus diminish both its velocity and its consequent power to do injury.

J. C. T.

From the Kittanning Gazette.

### THE ALLEGHENY RIVER.

In the present contest for the trade of the west, the Allegheny river is an object of great and constantly increasing interest; and that it will ere long become an important avenue of trade, no one who watches the signs of the times will for one moment question. New York has her eye upon it, for she well knows that unless she can reach the Ohio river by some more direct route than by way of Lake Erie and the Ohio canal, she must give up the immense trade of that river to Pennsylvania. Her projected canal from Rochester to Olean may, therefore, be calculated on; and when that is accomplished, the Allegheny will rise in the scale of importance to be second only to the Ohio itself.

Firmly persuaded of the truth of what we have here stated, we shall venture to offer to the world, a more minute description of this river than has yet been given.

Its source is in Potter county, Pa. from whence it flows in a north-western direction about forty miles, when it enters the state of New York, at the S. E. corner of Cattaraugus county, having in that distance received many tributaries, and become a large stream. About fifteen miles from where it crosses the state line, it receives Olean creek, a considerable stream from the north. Olean or Hamilton village is situated at the mouth of Olean creek, and will doubtless become an

important place. From Olean the course of the river is a little north of west, for about thirty miles, when it changes to south west, and soon after re-enters Pennsylvania, at the north east corner of Warren county. From thence its mean direction continues the same until it receives French creek, one of its largest tributaries, from the north-west; it then changes to south east, and so continues to the mouth of Mahoning, where it again changes to south-west, which course it retains for the most part until it unites with the Monongahela at Pittsburg, and where it loses its name in that of the Ohio.

In its course it flows through the following counties:—Potter, Pa. in which it rises, McKean, Pa. Cattaraugus, N. Y. through which it flows a distance but little short of 50 miles—Warren, Venango, Armstrong and Allegheny, in Pennsylvania.

It receives in its course many large tributaries, the principal of which are: The Oswaya creek, above Olean; the Olean, Tanungwant, (or Tonnewanto,) Great Valley, and several others, in Cattaraugus county, Kenjua, Connewango, and Brokenstraw, in Warren county; Tionesta, Oil creek and French creek, in Venango county; Clarion river, or Tobys creek, between Venango and Armstrong; Moholbuctem, or Redbank creek, and Mahoning, in Armstrong county; and the Kiskiminetas river between Armstrong and Westmoreland. All the streams here enumerated are navigable to a greater or less distance. No navigable stream enters the west side of the Allegheny below French creek.

The following are the distances from Pittsburg up, by the course of the river.

	miles.	miles.
From Pittsburg to		
Kiskiminetas river,	29	29
Town of Kittanning,	14	43
Mahoning creek,	9	52
Redbank "	10	62
Clarion river, or Tobys creek	21	83
French creek, (town of Franklin,)	32	115
Oil creek,	7	122
Tionesta creek,	18	140
Brokenstraw creek,	28	168
Connewango, (town of Warren,)	8	176
New York line,	18	192
Great Valley creek,	27	221
OLEAN,	18	239
Source of the Allegheny, about	60	300

Nearly all the large tributaries of the Allegheny interlock with other waters, whose outlet to the ocean is far distant from that of its own. Potter county gives rise to the Allegheny, a tributary of the Mississippi, the Genessee a tributary of the St. Lawrence, and to some of the head waters of both the North and West branches of the Susquehanna. Oswaya and Olean creeks interlock with the branches of the Genessee, and the valley of the latter is to be the route by which the contemplated canal will reach the Allegheny. Olean and Great Valley creeks interlock with Cattaraugus creek, a large stream which falls into Lake Erie, some forty miles south-west of Buffalo. Connewango creek is the outlet of Chataque lake, a fine body of water near twenty miles in length, the upper end of which approaches to within eight miles of Lake Erie, its elevation above the latter, however, is very considerable. One or two steam boats ply regularly on Chataque lake: and it is said that no other steamboats in the world float at so great an elevation above the level of the sea. There is something sublime in the idea that steamboats are navigating a tributary of the Mississippi two thousand five hundred miles above its mouth, and that tributary only divided by an isthmus of eight miles from another inland navigation of more than two thousand miles. French creek also stretches her arms to the vicinity of the Lake, and is probably the best route for a water communication between the Ohio and that important inland sea. Clarion river and Redbank creek both interlock their

branches with those of the Susquehanna, and many intelligent gentlemen who are well acquainted with the country at their heads, are firmly persuaded that an unbroken water communication between the Allegheny and Susquehanna can yet be made through one of these streams. The Kiskiminetas is well known as the route of the western section of the Pennsylvania canal from the base of the Allegheny mountain to its junction with the Allegheny river.

We have been thus particular, because in this remarkable feature lies the chief importance of this river. It seems as if the author of nature, in stretching its branches in so many different points towards the great eastern and northern channels of navigation, was inviting man to avail himself of the incalculable advantages to be derived from an unbroken water communication between them and those of the west. It is in fact the key of the valley of the Mississippi:—and the day will come when the commerce of half the Union will be here concentrated; when boats from the lakes, the Hudson, the Delaware and the Chesapeake, will here mingle with those from every part of the vast and fertile regions of the west.

The general features of the Allegheny are peculiar, and in some respects remarkable. For the greater part of its course it flows, not through a *valley*, like most other rivers, but through a great *ravine*, from one to four hundred feet below the common level of the adjacent country. From about the middle of Armstrong county downwards, it is true, there are many fine bodies of alluvial land—on one of which this borough is located;—but from that upwards, precipitous hills, for the most part, jut close to the water's edge on both sides of the river. The scenery is, in some places, wild and rugged, though more generally picturesque and beautiful; for the hills, though steep, are covered with a heavy growth of forest trees, presenting the appearance of a vast verdant wall on either hand; while the pure limpid water of the river, alternately purling over the pebbly ripples and sleeping in deep intervening pools, completes a scene, the beauty of which is rarely equalled.

Another peculiarity of the Allegheny is the regular succession of alternate ripples and deep pools. The ripples are generally short, and the descent considerable, over which the water flows with a smooth but rapid current, though not so swift but that a steamboat of light draft and ordinary power can ascend them without difficulty, as has been done repeatedly. The current in the pools is very gentle at low water; but during high water it becomes very nearly uniform. Although the river seems to have worn for itself its present depressed bed, by cutting through various horizontal strata of rock; yet there are no rocks, strictly so called, in the channel—nothing but round pebbles. The ripples are composed almost exclusively of these, apparently scooped out of the pools above. The flat, unbroken rock is in some places found in deep water. It follows of course that the navigation of this river is unusually safe.

No river is better adapted to improvement by artificial means than the Allegheny, either by a succession of low dams and locks, or by merely concentrating the channel upon the ripples, so as to give sufficient depth of water at all seasons for steam boats. When it is remembered that a steam boat did regularly ply upon it between Pittsburg and Warren for a considerable time, even when the water was quite low, and that in one instance it ascended to Olean, it will readily be admitted that a very slight improvement would render it an excellent steam boat navigation.

The mineral wealth of this river is another important consideration. Bituminous coal, in exhaustless quantities, extends as far up as Clarion river, and some even higher up. *We believe (and we are not alone in this opinion) that the day will come, when the trade in this article alone will be of sufficient importance to warrant*

*the construction of navigable communications from this river to Lake Erie, and to the New York canal, were there no other trade.* We shall merely add that it could be delivered on board of boats for two and a half cents per bushel, and leave others to fill out the calculation for themselves.

There are along the Allegheny and many of its tributaries immense forests of white pine, from which the Ohio country draws almost its entire supply of lumber. It forms a large and important trade.

Iron also abounds along the Allegheny, and is manufactured in considerable quantities.

After the above was in type, we received the Pittsburgh Gazette of Friday last, containing the following article, which, it will be perceived, bears us out in our calculations as to what New York will do. The people of this county have long been anxious to have the Allegheny improved, and have again and again exerted themselves to urge it forward. Now we say to them, hold on—keep your shoulder to the wheel—for *Hercules is coming*.

*The Rochester and Allegheny Canal.*—We were really delighted to see the following paragraph in the "Rochester Daily Democrat" of Tuesday last, the 15th inst. It gives us assurance that the great State of New York is now, as ever, wide awake and watchful of her own interests, and prompt to adopt all such measures as may contribute to secure them. Whether the proposed work will really put New York on an even ground of competition with Philadelphia, for the trade of the west we are not convinced. But it is *now* perfectly manifest that all efforts to share in that trade, by a communication through Buffalo, are utterly hopeless; the uncertainty and risk of lake navigation, and the long obstruction of that harbor, form insuperable objections to that route to the west. As the New Yorkers have already made a distinction between the west and the *far* west, we would add that the security even of the trade of the latter will be greatly endangered, by dependence *solely* on the outlet through Buffalo.—That the route by Olean to Pittsburg, Cincinnati, or Louisville will be more advantageous than through Buffalo, is very manifest to any person who will look at the map of the intermediate country. The following suggestions would seem to remove all doubt:

From Rochester to Olean, by the route of the proposed canal is 103 miles; three of which consist of the navigable feeder, already made, above Rochester.—From Olean to Portsmouth, by the Allegheny and Ohio rivers, is about 600 miles.—Total distance from Rochester, by Olean, to Portsmouth, about 700 miles.—From Rochester to Portsmouth, by way of Buffalo and Cleveland, is about 600 miles.—By the former route, there is one hundred miles of canal, and six hundred by river, which is navigable sometimes, and may be made always navigable, by steam boats. By the latter route there is four hundred miles of canal, and two hundred miles of lake navigation. Those who know the difference in the cost of transportation, by canal and steam boats, will at once perceive the advantage our route has in this respect.

By this route, the boat which leaves the Hudson may proceed to Olean, and the one which leaves Olean may descend the river to Pittsburg, Louisville, or New Orleans, being but one change of mode of conveyance. By the other route, produce or merchandise must be re-shipped at Buffalo, at Cleveland, and Portsmouth, being three different shipments. But the greatest advantage of this route is this—goods may be sent from New York, by Olean, and reach Louisville before Buffalo harbor is open.

Independent, however, of the trade of the west, and *far* west, the access which this canal will give to the immense forests of pine along and near the Allegheny,

and to the coal region, in Pennsylvania. would be a sufficient object to justify the making of this canal.

That it will be immensely advantageous to Pittsburg, by directing to this quarter a large portion of that very great flood of emigration which annually crosses lake Erie, is very certain. That it will also open a new market to our manufactures is equally certain.

The most important advantage, however, which we will derive from this improvement, will be the united influence of New York, in favour of the improvement of the Allegheny river by the General Government.—Perhaps we should mention that this route, from Rochester to Olean, has been surveyed, once before, and found practicable, at an estimated expense of \$875,588.

From the Rochester Daily Democrat.

**"Rochester and Olean Canal.**—Mr. Mills, Chief Engineer of the State for the survey and laying out of the Rochester and Olean Canal, arrived in town, with the Canal Commissioners, last Tuesday evening, and left on Saturday morning, to commence his work at the summit level, as usual, running thence both ways to the two termini—Olean Point and this city. He will arrive at this place again, completing his tract and estimates, next fall. He goes with assistant engineers, and a corps of 16 attendants,—chain men, bearers, and laborers, &c.

The State have made abundant provisions to have a thorough work, amply supplying all the requisite means for exploring the whole country, and taking advantage of every facility of completing it in the best manner. The execution of this great work which we expect to see begun next spring, will be an era in the growth of the city of Rochester, more to be noted in our history than any thing since the construction of the Erie canal. It connects us directly with the Ohio and Mississippi rivers; indissolubly with the city of New York, and will probably be the means of doubling our population in a very few years. The expenditure of so large an amount of public money in the construction of the work will alone give us a great impulse."

#### ABOLITION OF LOTTERIES.

At a meeting of the citizens of Philadelphia, convened on the 6th of June, 1834, at the Hall of the College of Pharmacy, to consider and adopt some measures to assist the public authorities in enforcing the law for the abolition of Lotteries.

ALEXANDER HENRY was called to the chair, and GEORGE M. STROUD appointed Secretary.

The object of the meeting having been stated, the following preamble and resolutions were unanimously adopted: Whereas, it has been ascertained that the law of this State abolishing all Lotteries from and after the 31st day of December, 1833, is violated by extensive sales of Tickets in Foreign Lotteries, to the great injury of the morals of the people and particularly of our youth.

Therefore, Resolved, That it is expedient to form an Association of citizens, for the purpose of aiding the public authorities in enforcing the Law passed by the Legislature of Pennsylvania, for the total abolition of all Lotteries, and also to promote the enactment of similar laws in other states, where lotteries are still suffered to exist.

An Association to be called "*The Pennsylvania Society for the suppression of Lotteries*," was thereupon immediately formed in accordance with this resolution, and the following constitution for its government proposed and adopted.

Art. 1. Any person paying ten dollars at one time, or two annually, to the Treasurer of the Association, shall be a member thereof.

Art. 2. The officers of this Association shall consist of a President, Four Vice Presidents, three Counsellors, a Treasurer, two Secretaries, and thirty Managers,

all of whom shall be elected on the first Monday in November, in each year, at which time the annual meetings of the Association shall be held.

Art. 3. The President, or in his absence one of the Vice Presidents, shall preside on all meetings of the Association. The President, or in his absence either of the Vice Presidents, shall have power to call special meetings of the Association. Special meetings may also be called whenever the Board of Managers may deem it necessary.

Art. 4. The Treasurer shall keep all monies belonging to the Association, and shall pay all orders of the Association, or Board of Managers, signed by the presiding officer, and attested by the Secretary, and furnish a statement of his accounts to each annual meeting.

Art. 5. The Secretary shall keep records of the proceedings of the Association, and give due notice of each meeting.

Art. 6. The Board of Managers, of whom the officers of the Association shall be ex-officio members, shall meet at least once in each month; five members shall constitute a quorum. The Managers shall have power to fill vacancies in their Board, and they shall report to the Association at its annual meeting, a summary of their proceedings for the past year. It shall be the duty of the Managers to correspond with all persons and societies who may be disposed to promote the enactment of laws to abolish Lotteries in all states where Lotteries are still authorized, and they shall have power to pursue such measures as they may think best calculated to accomplish the object of the Association.

The following gentlemen have been elected officers under this constitution.

President—Thomas C. James, M. D.

Vice Presidents—Abraham Miller, Benjamin W. Richards, Alexander Henry, Thos. P. Cope.

Counsellors—Wm M. Meredith, Geo. M. Stroud and J. R. Tyson.

Secretaries—George Handy, J. M. Atwood.

Managers—Joseph Watson, Matthew Newkirk, Silas W. Sexton, Wm. Hodgson, J. J. Barclay, Robert Earp, A. Symington, Geo. W. Smith, Joel Atkinson, Isaiah Hacker, Isaac Collins, Josiah White, Townsend Sharpless, Edward Needles, John S. Henry, Joseph Warner, Geo. Williams, Barth. Wistar, Hart Grandom, Henry Troth, John U. Fraley, Abraham Hilyard, G. W. Blight, Fred. Fraley, John Weigand, Jacob Lex, Thos. Astley, Saml. L. Shober, Edward Yarnall, Wm. McMaine.

**PENNSYLVANIA CANAL.**—The importance of this great improvement to the whole western country, and the "far west," too, is daily becoming more manifest. We think that but little more time will be necessary to prove that the great line of intercourse, between the seaboard and the Valley of the Mississippi, must pass through this state.

One of our most intelligent and active commission merchants gave us, last evening some items of information, which go far in making out the case, which time will complete. He stated that the house to which he belonged had, that day, or the day before, shipped for Louisville ten tons of merchandise, which had been agreed to be delivered at that place in fourteen days from Philadelphia—freight, \$1 33 per cwt.

He also stated that they had, at or about the same time, shipped 95 packages of Merchandise for St. Louis, which were to be delivered at St. Louis in twenty-one days from Philadelphia—freight two dollars per hundred.

In relation to transportation eastward, he mentioned that they had yesterday received a large lot of Ohio tobacco, which they had agreed to transport to Baltimore, *by the way of Philadelphia*, at one dollar per cwt. The statesman, of this morning, mentions that a large lot of mackerel, marked for *merchants in Wheeling*, was received at Pittsburg by the canal, on Saturday last, and forwarded the same day to the head of navigation.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

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AN ADDRESS BY JOHN MORIN SCOTT, ESQ.

An Address, delivered by request, before the Literary Societies of Lafayette College, at Easton, on the Fourth of July, 1834, by JOHN MORIN SCOTT.

LAFAYETTE COLLEGE, July 4, 1834.

Sir—As the organs of the Franklin and Washington Literary Societies, we tender to you their unanimous expression of thanks for the address delivered before them this morning at their anniversary, and request a copy for publication.

With sentiments of sincere respect and esteem, we are, sir, your obedient servants.

T. TENBROOK,

T. JANVIER,

J. T. SANDELS,

Committee of the Franklin Literary Society.

D. GASTON,

D. COULTER,

B. F. STEM,

Committee of the Washington Literary Society.

To JOHN M. SCOTT, ESQ.

## ADDRESS.

Gentlemen of the Literary Societies of Lafayette College.

Obedience by the individual to the expressed will of his fellow citizens, is in our republica principle of action. Partners in a great commonwealth, each member of the society holds himself bound to contribute his exertions, however humble, to the general weal, in whatever manner his fellow-labourers may require. Strong as at all times, is this acknowledged obligation, it acts with additional force when the call is made by the young—by the generous spirits first springing into life; upon their maturer brethren. Love for the pure and uncorrupted feelings of early life, sympathy with the yet unabated enthusiasm of confiding youth add their influence to the call of duty; and the demand thus made is obeyed and responded to with the alacrity of affection.—Submissive to these principles and guided by these feelings, the individual who now addresses you appears by your direction to participate in the ceremonies of our national anniversary.

This task, which under any circumstances would be agreeable, derives additional pleasure from the place and the occasion of its performance. Accustomed from my earliest boyhood to the rivers and mountains of this most beautiful district, there is scarcely a rock or a tree which is not hallowed to him by endearing recollections: not a countenance in which he cannot trace the lineaments of ancient acquaintance, or the hereditary resemblance of ancient friends “now to the dust gone down.” You young gentlemen in after life will often recur with the regretful feelings of retrospection to the magnificent scenery which surrounds us—to the dark waters of the romantic Lehigh—the bright waves of the sparkling Delaware—the deep blue outline of the distant hills—the bold and broken summits of these undulating mountains—to these verdant and sequestered valleys—to that rare combination of beauties which makes this one of the choicest districts on earth, where nature seems to have delighted in bestowing her gift

with a lavish hand. When the cares of the world press upon your spirits; when disappointed ambition, or blighted affection, or scattered dreams of wealth and fame, or debilitated and broken frames, shall some or all of them weigh down your hearts; you will turn with eagerness, to that green spot in your memoirs, which recalls to mental vision the halls of your alma mater; its bright skies; its boundless prospects; its cheerful labours; its warm friendships; and its bright anticipations. And well will it be for you then, if you shall have here imbibed the draughts of science, the principles of morality, and the truths of religion: which, indispensable as the means and ornaments of prosperity, have a deeper value as the consolations and supports of adversity.

The occasion too presents abundant cause of gratulation. The prolonged life of an individual is of sufficient extent to go back to the moment when on this very spot, the red men of the forest, the original lords of the soil, sat at their council fires, and held as an independent race conference with those who were comparatively strangers in the land; established with them treaties; and alas, for the poor Indian! gave up their country to the domination of the white man.\* Little was it then anticipated that in three-fourths of a century that humble village would become the centre of a magnificent artificial navigation; be surrounded by canals which would do honour to the science of the old world; would exhibit an accumulation of wealth, in its bridges—its banks—its factories, and its ware-houses; would offer in its churches substantial and tasteful places of worship to all the leading sects of Christianity; and be crowned on its most beautiful summit with a temple sacred to science—a collegiate institution devoted to

“Those liberal arts which humanize mankind,  
Softened the rude and calm the boisterous mind.”

Such is one of the great mutations, one of the brilliant advances in the road to national eminence, everywhere exhibited by our young, aspiring, and free country: by that country in whose fortunes you are preparing to participate; whose greatness and whose freedom it will soon become your task, your duty, your delight, to advance and uphold. Such is one of the fruits of that liberty, secured by the bold and holy act which this day commemorates; that liberty of action—that equality of rights—that personal and national independence—that well defined constitutional freedom, earned by the sword, recorded by the pen of your ancestors; and now I hope profoundly graven on the hearts of their descendants: of that constitutional freedom which you young men must in your turn should the occasion arise defend with your hearts and hands; with the exertion of your intellect and the outpouring of your blood; against all assaults from foreign injustice, or unholy domestic ambition; under the penalty, if you fail, of the execration of all mankind.

What then, young gentlemen, in accordance with the requisitions of the day, shall be our theme? Shall we retrace for you the story of the revolution: shall we point to the first drop shed from the veins of the free at Lexington, whose crimson dye spread over the face of the land, and refused to be effaced, until it was washed

\* The treaty of Easton in 1758.

out by the repentant tears of the mother country weeping for the irremediable loss of her offspring? Shall we remind you of the sacred heights on which fell the generous and accomplished Warren; and which now bear the proud pillar sacred alike to his memory and to the soul-stirring story of that gallant field? Shall we dwell on the deep gloom of the retreat through N. Jersey, dispersed by the sun of Trenton and of Princeton? Shall we descend on the proud plains of Saratoga, where the bold Burgoyne doffed the plume of victory, and surrendered his anticipated triumphs, and his beaten army to the gallant Gates? Shall we call up again the ramparts, the breastworks, the covered ways and walled fortifications of Yorktown, where the troops of Cornwallis laid down their arms, and the seal was set to the diploma of our independence? Shall we go over again all these exciting scenes? We'd may they bear repetition—and ancient as the story is, it is “by distance made more sweet.” But to you, young gentlemen, the reiteration is unnecessary: to you, the events of that glorious era are familiar as the sound of the maternal voice; they have formed the political catechism of your earliest days.

In the revered name which has been selected as the distinguishing appellation of your collegiate hall, we find a subject worthy of the day. The founders of this institution have given to you as an incentive to exertion, and an exemplar for imitation, a name dear to Americans; associated in their hearts with that of Washington; intimately connected with the history of their enfranchisement, and cherished by the friends of freedom throughout the world. Upon the day so lately passed when the faculty of this college were inducted into office, the brave and amiable Lafayette was still illuminating his native country with the maxims of his wisdom and experience, was still looking to the land of his adoption with earnest and affectionate regard. Now, the voice of lamentation heard throughout that land proclaims that he is no more! The last link which united us of this age with the fathers of our republic is broken: the familiar friend of Washington has followed him to other worlds; and our country feels again the shudder which convulsed her frame when her father died.

Let us then devote the few minutes which remain to a cursory glance at some of the leading incidents of the eventful life of the departed Lafayette.

France, for ages the seat of a brave and powerful people; the scene of many and great revolutions, political and religious, has been proportionately fertile in the production of celebrated men. She rejoices now, to add to the illustrious roll, a name, than which none brighter or purer, can be found among the pages of her eventful history. The province of Auvergne, illustrated nineteen hundred years ago by the pen of Cæsar, and commemorated in modern days in the polished and rounded sentences of Gibbon, claims the honour of having given birth to Lafayette. And it may be, that from the perusal of the ancient story of his native district, where the Roman conqueror met defeat, and while wandering amid its snow-capped mountains, with the feelings of personal independence belonging to a mountain race, he imbibed that enduring love of liberty, and never-failing hatred to despotic power which have marked his career from its commencement to its end.

Born in seventeen hundred and fifty-seven, married at the early age of seventeen, his nineteenth year found him on our shores a volunteer in the cause of freedom. It was an extraordinary, perhaps a romantic step. This gentleman was of noble birth—had been educated in Paris, at an institution surrounded by the trappings of royalty; was not an undistinguished member of the courtly circle; and held an appointment in a body of troops charged as guards of honour with the safety of the royal person. Let it be remembered too, that this court was the most brilliant, we may add, the most dis-

solute in Europe: a new reign had just commenced; the throne was occupied by a young and amiable prince; his consort, a woman of exquisite loveliness, of great ambition, and not overscrupulous in yielding to the solicitations of pleasure. All around was redolent of luxury. Every allurement was present, which could excite the imagination, entice the wishes, or gratify the desires of a young and ardent temperament. From such a court, from the endearments of a youthful bride, from the meshes of ambition and of pleasure so skillfully interwoven that they might have formed a net as strong as that which Vulcan fabricated to entrap the enamoured Mars, did the young warrior break away. And whither did he fly? what was the magnet which withdrew him from the circle of delight? He had heard of the struggle of a distant, an unknown, an humble people; rising up in their very infancy against the oppressions of a nation whose arts and arms, and wealth and power were the gigantic accumulations of century upon century of victorious sway. He had read in the declaration of independence, this people's exposition of their wrongs, he had heard the story repeated from the eloquent lips of Franklin and his associates, in the commission to Paris: and in them he beheld specimens of the men who were prepared to defend, with their lives, the principles promulgated in that unparalleled paper—who had already in that defence subjected one British army to pass beneath the yoke. His youthful ardour overleaped restraint. He broke from the blandishments of the court, and of connubial love; from his own resources prepared a vessel to bear him across the Atlantic; and in April, seventeen hundred and seventy-seven, first landed on our shores, among the chivalric sons of Carolina.

What then, in this first public act of Lafayette, do we find to be presented to the mind of youth as worthy of imitation? It exhibits, gentlemen, the fine lesson of an entire abandonment, by one to whom the joys of earth were yet fresh and vivid, of a life of ease and luxury, for one of labour and of danger: an abandonment not prompted by the expectation of wealth to be acquired, of provinces to be won: not, even, perhaps, by the consolatory hope of fame. It was a gloomy, almost a desperate cause which the young enthusiast embraced. It was a people in rebellion, to whom he proffered his sword and his life, whose inferiority in all the elements of strife, to their powerful adversary was manifest in the very warmth of their appeal for aid to the young warrior's king; and in the depressing avowal of the instruments of that appeal, that they could not furnish the means of transportation to the friend who was willing to fly to their assistance. Even the baubles of ambition were not to be hoped for—ribbons and titles and distinctions. The very basis of the contest was equality of rights; repudiation of all distinguishing honours, except the spontaneous esteem of the people, awarded to tried fidelity and republican virtue. The spectacle presented, therefore, is the rare one of self-abandonment, self-oblivion, self-sacrifice at the shrine of principle. Shall we be told in reply that the event disproves the theory; that the harvest which has been reaped is rich beyond example? True it is so. But was this event foreseen? Could this harvest have been predicted? We know that even the fathers of the revolution scarcely dared anticipate the great results of their Providence-directed course. Much less did the youth of nineteen foresee the abundant treasure of a nation's love and a world's admiration, which were in store for his maturer years. He looked not beyond the honorable impulse of the moment, and the generous dictates of his own ardent spirit.

The arrival of Lafayette was hailed with joy—it was the first evidence to a suffering people of sympathy from foreign nations: the first clear manifestation that they were not abandoned and rejected by all mankind. It was the harbinger of a brighter day—which was soon to burst in rich effulgence upon their darkened pros-

pects. He became immediately a member of the family of Washington—and received an honorable appointment in our army. It is well known that the affection and esteem of the father of our country was soon conceded freely and fully to his young friend—that his confidence and regard grew with increase of intimacy—and were bright and refugent to the last hour of his life. Higher praise than to have gained and retained the love of Washington, need no man claim. That great and good man, clear in all his perceptions—calm and sedate in feeling—stern and immovable in resolve, formed not his estimate of character by hasty impulse—gave not his regard inconsiderately—bestowed not his confidence without reflection—and if it were merited, spared not the severe castigation of his censure. To have possessed in *his* heart an abiding place, was in itself a stamp of striking worth, a patent of nature's nobility—a passport to the respect of the civilized world. That Lafayette was thus beloved was shown not only by the character of the intercourse while together, but by the fact that in after years when he became the victim of revolutionary phrenzy, and the tenant of a dungeon, his eldest son was sent to Washington, as his best protector, and most faithful guardian—the appeal was responded to—the claim acknowledged; and the pledge redeemed. The son of his ancient friend found in Washington a second father—and remained beneath his roof until better auspices smiled upon his return to his native soil.

Lafayette's military career in the service of his adopted country—though short—was brilliant. He contributed largely from his ample means to the equipment of troops whom he afterwards headed in battle—and at Brandywine attested, with his blood, the sincerity of his attachment to the principles for which he fought. How profound must have been the emotions of this excellent man, when nearly half a century after that day, he stood upon the very spot, where struggling for an infant people he had fallen, and recounted the events of the battle—and spoke of the deeds of all who had been there, *except his own*—to the children and grandchildren of his companions in arms—himself almost the only survivor of the gallant band. Glorious stream! consecrated by the arms of Washington, by the blood of Lafayette—by the proclaimed gratitude of a great people acknowledging and redeeming the debt of their buried sires.

The Battle of Brandywine, though gallantly fought, terminated in defeat—and was succeeded by the occupation of Philadelphia by the British army. At a subsequent period, Lafayette had the honor of conducting, as commanding officer, a successful campaign in Virginia against Lord Cornwallis—in which with inferior forces, he baffled the designs of that active antagonist, and saved the state—and in the ensuing year participated in the siege of York Town—stormed a British redoubt at the head of American troops, and contributed, largely, by his personal gallantry, to the surrender of Cornwallis and his forces—of that Cornwallis, by whom he had been contemptuously called “the Boy.” This great victory secured the triumph of America—and was soon succeeded by that acknowledgment of her independence which could no longer be withheld. Imagine, my friends, the holy joy with which he must have beheld this triumphant consummation, who had come to us in the hour of despondency—who had fought for us—contributed his treasures—traversed the ocean again and again—entreated his king—and enlisted his countrymen on our behalf. Then came the bright and pure reward of his early self denial and self-devotion. He left our shores beloved by the people—applauded by the public authorities—young in years, but already ripe in fame—in fame which had preceded him “trumpet-tongued”—and made his name already the idol of those who ruled, through the theatres and saloons of Paris, the popular opinions of the day.

France, at the period of Lafayette's return, was on

the eve of those extraordinary events which at first excited the sympathy and admiration of men; but in their progress roused feelings of alarm and abhorrence. The splendid reign of the fourteenth Lewis, rendered illustrious by the brilliancy of his victories—the splendour of his court—and the extent of his power, was succeeded by the long career of another Lewis, who retained the sceptre almost half a century—surrounded by unworthy favorites, plunged in debauchery, stained with crime, conscientiousness revelled uncontrolled—profligate expenditures wasted the public treasures and exhausted the resources of the nation. The infection pervaded all society; and exhibited the plague spot of unhallowed pleasure on every cheek. The power and influence of the nation declined—and at his decease, France was shorn of the beams which had shone with so much brightness under his predecessor's rule. This awful period of moral darkness, was distinguished by the lurid glare of genius and intellect of the highest order, prostituted to the most baneful purposes. France was never more rich in intellect—but never was intellect more shamefully abused. The sallies of wit—the investigations of philosophy—the ornament of rhetoric—the sophistries of logic—the productions of art; were all directed by one common effort to overturn the foundations on which the spirit of man had for ages rested its dearest hopes—and the effort was successful. Profligacy and irreligion were triumphant. Amid all these bold investigations, it was not to be expected that the science of government would escape examination; and that was a field in which the real philanthropist, and the mere philosopher—who pursued his theories, careless of consequences, might expatiate together. To the good and pure, as well as to the reckless and profligate, the corruptions of the monarchy had become so glaring as to produce contempt, and excite dislike. France, therefore, was ripe, from a combination of causes, for revolution—which was to prove beneficial or baneful, as the ascendancy of the antagonist principles might decide. It could not be doubted which side Lafayette would adopt in the coming contest. He had become a genuine republican: he acknowledged theoretically—and felt in his inmost bosom the truth and the beauty—of the principles which assert the political equality of men. He had seen the practical effects of that doctrine in his adopted country—creating a race of freemen—pursuing their respective roads to wealth—to eminence—to respectability—to public distinction or to private independence, as to each might seem best. He had perceived that talent—that integrity—the power to serve the commonwealth—belonged to no particular order—were found as often in the cottage as in the palace. He had witnessed the harmonious accordance of order, and industry, and happiness, of individual and national prosperity with republican government. In his preference, therefore, for free institutions, the sentiments of his heart accorded with the conclusions of his reason. He was, essentially, a republican; and his course in the public bodies of which he was a member in the early stages of the revolution, was a republican course; but he was neither a fanatic, an atheist, nor a murderer; and could not, therefore, keep pace with the revolution, when it degenerated into brutality and impious lawlessness. He could not assent to the execution of the amiable and virtuous Lewis XVI.—to the unmanly murder of his queen—to the systematized butcheries and wholesale drownings of his fellow men. He could not become a Danton, a Marat, or a Robespierre. He could not, and he did not participate in that scene of bloody anarchy—of profane infidelity—of cold-blooded and insatiable cruelty—of untiring profligacy—of bitter iron-handed, ever changing despotism—which defaced the fairest country on earth, and led by certain steps to final subjugation—nay, to thankful submission and grateful obedience to the master spirit, which tamed them, subdued them, governed them, and trampled on them all.

A limited constitutional monarchy—"A throne surrounded by republican institutions," was the object of his desire—not as the best form of Government—but as the best adapted to the situation of his country. And at one moment it seemed as if he had nearly attained this goal of his ambition. Lewis had yielded to the representatives of a people a constitution—such as Lafayette approved—and in the preparation of which he had assiduously labored. Its adoption by the nation, was an act of imposing solemnity; and the part borne by Lafayette in the ceremony, most honorable and conspicuous. Perish me to describe it in the words of an accomplished writer:—"The day chosen, as most appropriate for the ceremony, was the 14th of July, 1790, the anniversary of the destruction of the Bastille; and the open space behind the military school, called the Champ de Mars, was the place fixed on for this great national festival and solemnity. By the constant labour of from one to two hundred thousand persons, of both sexes and all ranks, from dukes and duchesses, bishops and deputies, down to the humblest artisans, who all made the occasion like the Saturnalia of the ancients, an amphitheatre of earth, four miles in circumference, was raised in a few weeks, whose sides were formed of seats destined to receive the French people, and in whose centre stood the throne and the altar. On the morning of the day when the whole was to be consummated, the king, the court, the clergy, the national assembly, a deputation of the military from the eighty-three departments, and a body of the people amounting to above four hundred thousand souls, were assembled in this magnificent amphitheatre. Mass was first said, and then Lafayette, who that day had the military command of six millions of men, and held in his hands the power of the monarchy, swore to the constitution, on behalf of the nation, at the altar which had been erected in the midst of the arena.—Every eye of that immense mass was turned on him: every hand was raised to join the oath he uttered. It was, no doubt, one of the most magnificent and solemn ceremonies the world ever saw: and, perhaps, no man ever enjoyed the sincere confidence of an entire people more completely than Lafayette did, as he thus bore the most imposing part in these extraordinary solemnities."

This great man, no doubt, then believed that he had won the regeneration of his country, and reaped the rich reward of his own devotion to the cause of liberty. If such were his hopes, they were destined to bitter disappointment; and in the hour of his brilliant triumph, he was treading upon the confines of the darkest moments of his life. The march of revolution was but begun. The long long years of folly, of debauchery, and of crime, in which that fine country had been plunged by weak and vicious rulers, were to be visited by an atonement of bitter severity and awful prolongation before the dark spots of dishonor could be effaced, and an untarnished escutcheon be restored to the nation. The good and the evil were alike to be overwhelmed in the hurricane of ungoverned passion. A generation was doomed to be swept away, that another might rise from purer seed, and of more hardy and vigorous growth. The spirit of anarchy was abroad, the lust of blood was raging in the excited veins of unholy men. Lafayette himself was proscribed; and from the head of the French armies assembled in opposition to the coalesced powers of Europe, was compelled to fly his country. He fell into the hands of Austria—and pure and spotless though his life had been—equally opposed to the madness of revolutionary phrenzy as to the oppressions of tyranny—the gloomy despotism of Austria would not forgive his devotion to constitutional government. He was consigned to the dungeons of Olmutz. The friend of our country—of our Washington—of man—was most foully immured in the prisons of that detested fortress.

Young gentlemen—Do you recollect Sterne's pic-

ture of the captive? Allow me to recall it to your memory:—

"I took," says Sterne, "a single captive; and having first shut him up in his dungeon, I then looked through the twilight of his grated door to take his picture. I beheld his body half wasted away with long confinement, and felt what kind of sickness of the heart it was which arises from hope deferred. Upon looking nearer I saw him pale and feverish; in thirty years the western breeze had not once fanned his blood: he had seen no sun, no moon, in all that time: nor had the voice of friend or kinsman breathed through his lattice. His children!—but here my heart began to bleed, and I was forced to go on with another part of the portrait. He was sitting upon the ground upon a little straw in the farthest corner of his dungeon, which was alternately his chair and bed: a little calender of small sticks was laid at the head, notched all over with the dismal days and nights he had passed there—he had one of these little sticks in his hand, and with a rusty nail he was etching another day of misery to add to the heap. As I darkened the little light he had, he lifted up a hopeless eye towards the door, then cast it down, shook his head, and went on with his work of affliction. I heard his chains upon his legs as he turned his body to lay his lit le stick upon the bundle. He gave a deep sigh. I saw the iron enter into his soul."

This profound picture of human suffering did Lafayette realize in all but its extreme duration. For two years the place of his confinement was concealed from all the world—and was discovered only by the most assiduous exertions and well-devised schemes of an intelligent gentleman who embarked in the effort to ascertain the fact and manner of his existence. When certainty was attained on these points, a gallant attempt at his rescue was made—in which American love participated in the person of a son of him whose hospitable hearth had first received Lafayette on this side the Atlantic. The attempt, successful in its commencement, was, in the end abortive: and Bollman and Huger paid the penalty of their gallantry in chains: and endured, with fortitude, the same unrelenting severity and barbarous inflictions from which they had essayed to relieve the noble prisoner. The attention of civilized nations was, however, awakened. Austria could no longer perpetrate cruelty without incurring disgrace. His exemplary wife and daughters were permitted to share, and to soothe the severities of his captivity—the voice of indignant reproach was heard in the Commons of Great Britain—the language of entreaty and remonstrance flowed from the pen of Washington—France finally spoke in the day of her republican power—and the brave spirit which gloomy despotism would willingly have transferred from the prison to the tomb, was again restored to a longing world.

France was at that period moving with accelerated steps towards that magnificent despotism, which in the person of Napoleon subdued and enchained the turbulence of anarchy—which gave to the adoration of Frenchmen the idol of military glory in lieu of freedom—and for her slaughtered sons repaid the nation with the spoils of subjugated Europe. These were not scenes in which the pure republicanism of Lafayette could participate: nor was his single voice sufficient to stay that overwhelming torrent which, during his imprisonment, had been gathering force which broke down all the barriers of opposition. Insensible to the blandishments and entreaties of the "foremost man of all the world," resisting the allurements of ambition, Lafayette became—a farmer—and in the cultivation of the earth, and the elegancies of a liberal hospitality, sought consolation for disappointed hopes. When at length Providence having permitted the iron tempest of war during an awful cycle of years to sweep the fairest plains of Europe from Naples to Moscow, brought it back in one retributive concentrated blast, to pour its desolation upon the very point from which it had gone

forth on its errand of destruction,—and Napoleon, after his second lurid advent, and his defeat at Waterloo, seemed ambitious to make France one vast charnal house, and amid her ruins to erect his tomb, Lafayette again stood forth—calm—undaunted—still republican—and in the chamber of representatives—at the peril of his life—in the name of the people demanded the abdication of the despot. “All viewed with awe the venerable man”—Even the bold and talented Lucien, the brave and faithful brother of the warrior, bowed submission to the sage. The chamber triumphed: and the sterile rock of the ocean became the dwelling place and the tomb of the once great Napoleon.

Again did Lafayette retire to his farm—the Bourbon blood was not yet purged of its hereditary vices: and the ancient republican, though from time to time he filled the honourable post of a representative of the people, could not mingle with a court which refused to prop the throne with the support of “republican institutions.” And thus he remained in the calm enjoyment of domestic life, indulging in the retrospect of his well spent years, until again called forth, not by the events of his own country, but by the voice of America, to present to the world a scene which has no parallel in history.

In the year 1824, the thirteen original confederated states of this Union had expanded in number to four-and-twenty—all flourishing and powerful—the three millions of freemen, whom Lafayette had known and fought for, had increased to twelve. The territories of the republic had become enlarged by acquisitions, the result of a peaceful but firm policy—her rank, from that of the most humble in the scale of nations, had risen until she was numbered among the most exalted. The flag of the United States was the emblem of a prosperous, a powerful, a free people, able to contend with the mightiest nations of the earth, but living in amity with all. Such were the United States of America, on the western shores of the Atlantic. On the eastern shores of that ocean, at the distance of three thousand miles, lived an aged individual: a man of former generations—without power—without authority—without even the bauble of a title to distinguish him—for of that he had voluntarily stripped himself; and it was forgotten that he had once been called a Marquis. But this venerable man had been beloved of Washington—had in his boyhood loved and served this nation—had contributed with his blood and treasure to lay the foundations of its greatness—and now, in its day of power, this nation remembered the friend of its youth—and with almost the reverence of a child wished to gaze once more upon the features of him who had been to it almost a parent. This individual thus revered, was the virtuous, the excellent Lafayette. And this great nation, impelled by a spontaneous sentiment of affectionate gratitude, by a solemn legislative act, invited him to her shores. He came the Guest of a Nation.—You may search in vain, the records of all history for a parallel event!

Your course of studies, young gentlemen, has made you familiar with a Roman triumph. The conquering general led the procession through the streets of Rome, followed by his victorious troops—by the arms of the slain—by the treasures of subdued provinces—by long trains of fettered captives, doomed to slavery, or to death in the savage sports of the Circus. Blood and tears—the deep and inward curses of the oppressed accompanied every step of the gorgeous show. For every throb of triumph in the victor’s bosom, ten thousand palpitations of bitter woe pierced the bosoms of his fellow-men. Such must ever be the triumphs of the sword. Put them all together—all that ever graced imperial Rome—how do they compare with the triumph of Lafayette. His trophies were spread through all the land—were seen in its arts, its arms, its institutions, its wealth, its power: tears followed him, but they were tears of joy; and, for captives, he held the hearts of

twelve millions of freemen. Such was the triumph, of virtues.

You have read, too, of the landing of Napoleon at Cannes, upon his return from Elba, followed by his small but faithful guards—of his victorious march from thence to Paris—of the enthusiastic joy of his former brethren in arms, who advancing under the flag of the Bourbons to oppose the invader, required only the signal of his outstretched arms and bared bosom to rush into his embrace, and again acknowledge their ancient chief. That is undoubtedly a beautiful historic incident—and weaves for the brow of Napoleon a brighter chaplet than any placed there by his splendid series of almost superhuman victories. But the welcome and the joy, were the welcome and joy of armed men; hailing the second rising of the meteor which was to lead them again to the feast of battle and of slaughter. And it did so; and many, who gave that welcome, were soon laid low—and France, again overrun by hostile armies, and bleeding at every pore, wept in sackcloth and ashes for that ill-omened return.

Contrast the landing at Cannes with the landing of Lafayette in New York. Behold that magnificent bay, on whose waters, rolling in from the great Atlantic, sits that queen of cities—crested with spires—brilliant with the masts and waving flags of every nation of the earth. Along the waters of this bay—dotted with islets—crowned on the left with the heights of Long Island—bounded on the right with the shores of New Jersey—receiving at the point of the city the meeting waters of the Hudson and the Sound—approaches the proud vessel which bore him across the ocean: taken captive and led in triumph by a fleet of steamers—crossed at every step of her progress by a thousand sails darting around her, filled with rejoicing freemen. Thus Lafayette advanced towards the city; the artillery of the Narrows thundering from the fortress which bore his own name, and responded to by the cannon from the inner harbor. “He landed at the Battery amid the acclamations of two hundred thousand voices which hailed him with sounds of blessing and welcome.”—This was the first step of that triumphant procession, through four-and-twenty sovereign states, awarded to a great and good man, by a free and grateful people.

He landed on the 16th of August, 1824; and on the 7th of September, in the following year, bade a final adieu to his adopted country: the intervening period having been to the nation a continued jubilee—to him an hourly reiteration of their devoted and impassioned love. Mark, young gentlemen, the bright reward of a life of unblemished virtue, devoted to the promotion of the happiness of man.

It might have been imagined that the cup of true glory was now filled; but providence had still in reserve one precious boon to make it overflow before he died. In 1830, Charles the Tenth of France, forgot the lessons of adversity which had been so largely bestowed upon his ancient house. He broke his compact with his people; and that people again arose in arms. Three days Paris flowed with blood—the third beheld the flight of Charles—the triumph of the people—and that people once more obedient to the voice of Lafayette. Called from his retirement, at the head of the National Guard of France, France was at his command. He used his power by giving to her a citizen King—“a constitutional throne surrounded by republican institutions.”

“His ita transactis, obiit.”

We have thus, young gentlemen, cursorily glanced at a few of the leading events in the life of our country’s friend. He deserves the epithet of a great man—not as indicating nations subverted and generations slaughtered to gratify in-atiated ambition—but because he was pure in private life, as well as distinguished in public—was upright in intention—firm in action—steadfast in principle—because he loved his race, and sought *their*

*happiness* with uniform and undeviating constancy of purpose. No man of his eventful age has been more beloved and esteemed: and it has been his peculiar fortune that these sentiments which are usually looked for only in the domestic circle, or among a limited number of intimate friends, have been extended to him with intensity of ardor by the whole population of two of the greatest nations of the earth.

You have selected for your alma mater the institution which bears his name. You have thus invoked his spirit to observe your conduct. His fame will be enhanced by the honours you may win—the sanctity of his name will be violated by misconduct, into which you may be betrayed. Excellence here and purity of life hereafter you owe to him. You owe them also to your parents, and to your country. You cannot all become Lafayettes. The world has room for few such names. But you may all become virtuous men; enlightened citizens of a great republic; able to advance her prosperity, and participate in her government. And it may be, that the varying fortunes of our country may require, even in your day of activity all the wis-

dom, all the virtue, all the talent which her most gifted sons may be able to bring to her aid. That she must advance to greatness, to power, seems to be decreed by Providence: but whether that advance is to be made in union and peace among ourselves, and under the banners of freedom, or in the midst of dissension and civil war, and under the rule of despotism; it passes the presence of man to foretell. Brace yourselves then, young gentlemen, to the task; develop fully, in accordance with the design of the institution, your moral, your physical, and your intellectual faculties. Prepare yourselves like Cincinnatus and like Washington, for the plough, the senate, and the sword; and when you leave these halls of your early instruction, be prepared to offer to your country, frames hardened with labour, minds enriched with knowledge, and hearts imbued with sound religion and pure morality.

May the Ruler of all Nations, who inspired that declaration of independence, which renders this day so pre-eminent in the annals of history, continue to preserve and bless our beloved republic.

## METEOROLOGICAL REGISTER.

*Extract from the Meteorological Register, taken at the State Capitol—Harrisburg, Pennsylvania,*

By JAMES WRIGHT, Librarian.

FEBRUARY, 1834.

Days of the Month	Days of Week.	Morning temperature.	Noon temperature.	Evening temperature.	Mean temp. of day.	Morning height.	Noon height.	Evening height.	Mean height.	Winds.	State of the Weather.
Thermometer.					Barometer.						
1 Saturday	35	37	38	37	29.80	29.78	29.77	29.78	NE		Cloudy day,
2 Sunday	36	49	48	44	82	88	92	87	NW		Clear day,
3 Monday	34	46	50	40	30.00	30.00	29.90	29.97	W		do. do
4 Tuesday	44	50	51	48	29.65	29.65	29.65	29.65	W		do. do.
5 Wednesday	33	48	55	45	63	60	63	61	W		do. do.
6 Thursday	46	50	56	51	68	73	73	71	W		do. do.
7 Friday	49	42	34	42	73	77	84	78	N		Cloudy,—Clear,
8 Saturday	26	30	37	31	30.00	29.96	88	95	SE		Sun & Cloudy,—Cloudy,
9 Sunday	35	38	40	38	29.71	70	68	70	SE		Foggy and damp day,
10 Monday	42	45	47	45	76	78	81	78	NE		Cloudy day,
11 Tuesday	45	53	55	51	82	78	78	79	W		Clear,—Cloudy,
12 Wednesday	29	32	33	31	30.00	01	01	30.01	NW		Clear,—Cloudy,
13 Thursday	28	41	44	38	29.86	77	73	29.79	S		Clear,—Cloudy,
14 Friday	40	50	56	47	68	67	65	67	S		Cloudy,—Cloudy,
15 Saturday	56	67	66	63	53	50	50	51	SW		Cloudy Sun and Rain,
16 Sunday	43	48	46	46	63	73	80	72	NW		Clear,—Cloudy,
17 Monday	41	45	45	44	30.00	30.00	30.03	30.01	SE		Cloudy day,
18 Tuesday	43	48	53	48	26	26	23	30.25	NE		Clear day,
19 Wednesday	41	44	45	43	11	30.00	29.86	29.99	NE		Fog and drizzling rain,
20 Thursday	42	55	58	52	29.83	83	80	29.83	SE		Clear day,
21 Friday	47	53	57	52	85	89	78	80	SE		Cloudy day,
22 Saturday	52	55	56	54	78	78	78	78	NE		Damp and Cloudy day,
23 Sunday	55	59	57	57	68	66	67	67	NE		Driz. rain—damp & cld'y.
24 Monday	48	50	46	48	67	67	67	67	NE		do. " fog & damp.
25 Tuesday	47	50	42	46	60	60	60	60	W		Cloudy day—Blustering.
26 Wednesday	28	34	35	32	80	83	85	83	W		Sun & cloudy—Clear,
27 Thursday	30	43	46	40	85	75	73	78	SW		Clear day,
28 Friday	35	46	46	42	57	57	59	58	W		Cloudy day.

Thermometer.					Barometer.				
Maximum on the 23d,	-	-	-	57°	Maximum on the 18th,	-	-	30.25 inches.	
Minimum on the 8th,	-	-	-	31°	Minimum on the 15th,	-	-	29.51 "	
Difference,	-	-	-	26°	Difference,	-	-	00.74 "	
Mean,	-	-	-	45°	Mean height,	-	-	29.79 "	

## HEAT OF THE ATMOSPHERE BY THERMOMETER IN PHILADELPHIA ALMSHOUSE.

1834.	Sun rise.	9 A. M.	Meridian or noon.	3 P. M.	Winds and Weather.
Feb. 1	33	34	37	35	NE & cloudy, rai. sno. & sl't
2	32	34	43	45	NW and clear, moderate
3	31	34	42	46	SW and clear, moderate
4	33	34	43	49	SW and clear, moderate
5	33	38	45	50	WSW and clear, fresh gales
* 6	38	43	49	52	S and clear
7	35	32	31	31	NE, Strong and cloudy
8	20	22	28	31	NE, moderate and cloudy
9	32	33	35	34	NE, strong with rain
10	37	38	44	43	NE to NW, light and clou'y
11	37	39	48	50	NW and clear, & moderate
12	26	28	27	27	NW and clear, moderate
13	23	29	37	39	SW and clear, moderate
14	36	38	46	53	SW and hazy, moderate
15	49	55	65	66	SW, strong gales and cloudy
16	51	48	50	50	NW and clear, moderate
17	41	42	44	43	NE and cloudy, moderate
18	32	35	43	47	WNW and clear, moderate
19	35	42	54	55	NE and cloudy, SE and rain
20	45	47	55	60	NW and clear, moderate
21	41	44	53	58	NE and cloudy, moderate
22	42	47	51	53	NE and cloudy, moderate
23	51	52	55	55	NE with rain
24	45	46	49	49	NE with rain
25	46	47	44	43	NNE with rain
26	29	30	33	35	NW and clear, strong gales
27	27	31	38	44	SW and clear, moderate
28	33	38	43	50	SW and clear, moderate

\* 6th. This day the thermometer when exposed to the Sun, rose to 95 $\frac{1}{2}$ °.

## MEMORANDUM OF THE WEATHER FOR JULY.

(Thermometer out of doors, NE exposure at corner of Twelfth and Race streets.)

Years.	Days more or less rainy	Thun- & L.	Minimum observations between 5 and 6, A. M.	Maximum between 12 and 3, P. M.
1831	11	2	50—76	9 days from 70 to 80 14 " 80 to 94
1832	9	1	58—80 The observations were not uniformly kept these two years.	70 to 96 3 days from 90 to 96
1833	9	2	61—80 17 days from 61 to 67 14 " 67 to 80 Average minimum 66	76—96 7 days from 76 to 80 19 " 80 to 90 5 " 90 to 96 Average maximum 81 $\frac{1}{2}$
1834	9	4	59—80 13 days from 59 to 68 18 " 70 to 80 Average minim. 70 $\frac{3}{4}$	76—97 7 days from 76 to 80 16 " 80 to 90 8 " 90 to 97 Average maxim. 87 $\frac{1}{4}$

## LAND TITLES.

(Continued from page 91.)

Upon this opinion of the supreme court, the cause was again brought before the jury, and after the evidence was closed, and the arguments of counsel, Washington, J. delivered the following charge to the jury.

"When this cause was tried before, the counsel for the defendant insisted, that the plaintiff's title was built upon a contract, which he had not complied with, that he was to make a settlement, such as the enacting clause of the 9th section requires, unless prevented from doing so, by the enemies of the United State; in which latter case, he was, not only to prove a persistence in endeavours to make the settlement, during the period of the war; but was to go on to make it, after the prevention ceased. This question was so difficult, as to divide, not only this court, but the courts of this state. The question was adjourned to the supreme court, who have decided that a warrantee, who from April, 1793, to the 1st of January, 1796, was prevented by the enemies of the United States, from making such settlement as the law required, but, who, during that period, persisted in his endeavours to make such settlement, is entitled to hold his land in fee simple, although after the prevention ceased, he made no attempt to make such settlement. This we must consider as the law of the land, and govern our decision by it.

The questions are,

1st, Was the Holland company, from April, 1793, to January, 1. 1796, prevented from making their settlement? And,

2d, Did they persist in endeavours, during that period, to make it?

What is the legal meaning of prevention, and persistence in endeavours? Were they prevented, and did they persist, within this meaning? The first are questions of the law, which the court are to decide; the latter are questions of fact, proper for your determination. What were they prevented from doing, in order to excuse them? The answer is from clearing, fencing, and cultivating, two acres of land in every hundred acres contained in their warrant, from building a house thereon, fit for the habitation of man, and from residing, or causing a family to reside thereon. To what extent were their endeavours to go? The answer is, to effect these objects. It was not every slight, or temporary danger, which was to excuse them from making such settlement, but such as a prudent man ought to regard. The plaintiffs stipulated to settle as a society of husbandmen, not as a band of soldiers. They were not bound to expect every thing which might be expected from military men, whose profession is to meet, to combat, and to overcome danger. To such men it would be a poor excuse, to say, they were prevented by danger, from the performance of their duty. The husbandman flourishes in the less glorious, but not less honorable walks of life. So far from the legislature expecting, that they were to brave the dangers of a savage enemy, in order to effect their settlements, they are excused from making them, if such dangers exist. But they must persist in their endeavours to make them, that is, they are to persist if the danger is over, which prevented them from making them. For it would be a monstrous absurdity to say, that the danger, which, by preventing them from making the settlements, would excuse them, would not, at the same time, excuse them from endeavours to make them, so long as it existed. It would be a mockery to say, that I should be excused from putting my finger into the blaze of this candle, provided I would persevere in my endeavours to do it, because, by making the endeavours, I could do it, although the consequences would be such as I was excused from incurring. If then, the company were prevented from making their settlements, by dangers from a public enemy, which no prudent man would, or ought

to encounter, and if they made those endeavours, which the same man would have made to effect the object, they have fully complied with the proviso of the 9th section.

How, then, are the facts? That a public war between the United States, and the Indian tribes, subsisted from April, 1793, and previous to that period, until late in 1795, is not denied. And, though the great theatre of the war lay far into the north west of the land in dispute, yet it is clearly proved, that this country, during this period, was exposed to the repeated irruptions of the enemy, killing and plundering such of the whites as they met with, in situations where they could not defend themselves. What was the degree of danger produced by those hostile incursions, can only be estimated by the conduct of those who attempted to face it.—We find them, sometimes working out in the day time, in the neighbourhood of the forts, and returning within their walls, at night, for protection; sometimes giving up the pursuit in despair, and retiring to the settled parts of the country; then returning to this country, and again abandoning it. We sometimes meet with a few men hardy enough to attempt the cultivation of their lands, associating implements of husbandry, with the instruments of war, the character of the husbandman, with that of a soldier; and yet I do not recollect any instance, with this enterprising, daring spirit, a single individual was able to make such a settlement as the law required. You have heard what exertions the Holland company made, you will consider what was the state of that country during the period in question, you will apply the principles laid down by the court, to the evidence in the cause, and then say, whether the title is with the plaintiff or not. Verdict for plaintiff.

But, notwithstanding this decision of the highest tribunal of our country, the controversy still subsists. It has not tended to assuage, but rather to irritate opposition; and the consequences can only be conjectured, unless the wisdom of the legislature should adopt some moderate, conciliatory system, which may draw together contending parties. An object indeed, most devoutly to be wished!

But independent of this great litigated question, it is of no small moment to ascertain precisely, what constitutes a settlement, under this law; and very great light is shed upon this point, in *Balfour's lessee v. Meade*, in the circuit court of the United States for the Pennsylvania district, reported in 4 Dallas, 363. The facts were these:

The plaintiff claimed four tracts of land, north and west, &c. for which he brought this ejectment. His title rested on settlement rights, surveys and warrants. In 1793, he was a surgeon in the army, in garrison at fort Franklin. He took some of the soldiers, went out, cut down a few trees, and built up five pens, or cabins, about 10 feet square, and without putting covers on them, returned back to the fort in six or seven days. In April, 1795, he had these five tracts surveyed in the name of himself, Elizabeth Balfour, and three others, each 400 acres. The deputy surveyor had, upon application of the plaintiff, directed one Wilson to make the surveys, but something preventing him from doing it, the plaintiff employed one Steel to do it, and upon returning the surveys to Stokely, the deputy surveyor, he prevailed on him to write an authority to Steel to make the surveys, which he did, and antedated it, in order to make it appear to precede the surveys. In May, 1795, he obtained warrants of acceptance for two of the surveys of two of the tracts, having paid the consideration money for all.

In autumn 1794, the defendant, finding no person settled upon these tracts, built cabins upon the four tracts in controversy, covered them, or some of them, and then went off, not returning again till November, 1795, when he came with his family to reside in one of the cabins, and fixed settlers upon the other tracts. In

July, 1795, the plaintiff gave notice to the defendant, that he claimed the tracts in question, that he intended to settle them, and forewarned him to proceed no further with his improvements.

In January, 1796, the defendant *caveated* the plaintiff in form, and the same being tried before the board of property in March, 1800, the caveats were dismissed, and warrants were ordered to issue, but they never did issue, in consequence of doubts afterwards existing respecting the plaintiff's title.

In April, 1796, the plaintiff made engagements with some persons to settle these lands for him; but after they had seen and approved the lands, they declined going on them on hearing of the defendant's claim.

It was in proof by many witnesses, that the war with the Indians rendered it dangerous to settle that country, during the years, 1793, 1794, 1795, and that but few attempted before the spring or autumn of 1796.

Washington, justice, after recapitulating the different sections of the act of 1792, observed that the 8th section was intimately connected with the 3d section, and directed the deputy surveyor to survey and mark the lines of the tract, upon the application of the settler; and that such survey had no other validity, than to furnish the particular description, which must accompany the application at the Land Office for a warrant. The 4th section, among other regulations, protected the title of an actual settler, against a warrant entered with the deputy surveyor, posterior to such actual settlement.

That the 9th section of the act referred, exclusively, to the lands north and west of the Ohio, &c. he then recited the 9th section at large, stopping at the proviso, (see the section before,) and proceed thus:

Let us now consider this case as if the law had stopped here, a title to the land in controversy, lying north and west, &c. could be acquired in no other manner, than by actual settlement, no sum of money could entitle a person to a warrant, unless the application was preceded by actual settlement on the land, or, if not so preceded by actual settlement, the warrant would give no title, unless it were followed by such settlement within two years thereafter.

The question then is, what constitutes such actual settler, within the meaning and intention of this law, as will vest in him an inceptive title so as to authorize the granting to him a warrant; not a *pedis positio*, not the erection of a cabin, the clearing, or even the cultivation, of a field. These acts may deserve the name of improvements, but not settlements, there must be an occupancy, accompanied with a bona fide intention to reside, and live upon the land, either in person, or by that of his tenant, to make it the place of his habitation, not at some distant day, but at the time he is improving; for if this intention be only future, either as to his own personal residence, or that of a tenant, then the execution of that intention, by such actual residence, fixes the date; the commencement of the settlement; and the previous improvements will stand for nothing in the calculation.

The erection of a house, and the clearing and cultivating the ground, all or either of them may afford evidence of the *quo animo* with which it was done; of the intention to settle; but neither, nor all, will constitute a settlement, if unaccompanied by residence. Suppose, then, improvements made, the person making them declaring at the time, that they were intended for temporary purposes of convenience, and not with a view to settle and reside; could this be called an actual settlement within the meaning and intention of the legislature? Surely no: but though such acts, against express declarations of the *quo animo*, will not make a settlement, it does not follow that the converse of the proposition will: for, a declaration of an intention to settle, without actually carrying that intention into execution, will not constitute an actual settlement.

How do these principles apply to the case of the plaintiff? In 1793, he leaves the fort at which he was stationed, and in which he was an officer, with a few soldiers; cuts down some trees, erects four or five pens (for, not being covered, they did not deserve the name of cabins,) and in five, six or seven days, having accomplished this work, he returns into the fort, his former place of residence. Why did he retreat so precipitately? We hear of no danger existing at the time of completing these labors, which did not exist during the time he was engaged in them. What prevented him from proceeding to cover the cabins and from inhabiting them? Except the state of general hostility which existed in that part of the country, there is no evidence of a particular necessity for flight, in the instance of this plaintiff. It is most obvious, that the object of his visit to this wilderness was to erect what he considered to be improvements; but they were, in fact, uninhabitable by a human being, and, consequently, could not have been intended for a present settlement. He was, besides, an officer in the army; and, whilst in that service, he could not settle and reside at his cabin, although the country had been in a perfect state of tranquility. In short, his whole conduct, both at that time and afterwards; his own statements when asserting a title to the lands, the recitals in his warrants of acceptance, and certificates of survey, all afford proof which is irresistible, that he did not mean, in 1793, to settle. Mistaking the law, as it seems many others have done in this respect, he supposed that an improvement was equivalent to a settlement, for vesting a right in those lands. It is not pretended even now, nor is it proved by a single witness who assisted in making the improvements, that he contemplated a settlement. It has been asked, could the legislature have meant to require persons to sit down, for a moment, on land encompassed by danger from a savage enemy? I answer, no; at such a time it was very improbable that men would be found rash enough to make settlements. But yet no title could be acquired without such a settlement, and if men were found hardy enough to brave the dangers of a savage wilderness, they might be called impudent men, but they would, also, deserve the promised reward, not for their boldness, but for their settlement.

The first evidence we have of an intention in the plaintiff to make an actual settlement was in the spring of 1796, long after the actual *bona fide* settlement of the defendant with his family; for I give no credit to the notice from the plaintiff to the defendant in July, 1795, since so far from accompanying it with actual settlement, he speaks of a future settlement, which, however, was never carried into execution. Every thing which I have said with respect to the 400 acres surveyed in the name of George Balfour, will apply a fortiori against the three other surveys in the name of Elizabeth Balfour, &c. who, it is not pretended, were ever privy even to the making of the cabins, or ever contemplated a settlement upon those lands.

If the law, then, had stopped at the proviso, it is clear that the plaintiff never made such a settlement as would entitle him to a warrant. But he excuses himself from having made such a settlement, as the law required, by urging the danger to which any person, attempting a residence in that country, would have been exposed. He relies on the proviso to the 9th section of the law, which declares, &c. (see it before.)

Evidence had been given of the hostile state of that country, during the years 1793, 1794, 1795, and the danger to which settlements would have been exposed. We know that the treaty at Fort Grenville was signed on the third of August, 1795, and ratified the 22d of December, in the same year. Although Meade settled, with his family in November 1795, it is not conclusive proof that there was no danger even then; and at any rate, it would require some little time and preparation for those who had been driven off, to return to their settlements; and if the cause turned upon the question,

whether the plaintiff had persevered in his exertions to return and make such settlement, as the law requires, I should leave that question to the jury, upon the evidence they have heard. But the plaintiff to entitle himself to the benefit of the proviso, should have had an incipient title at some time or other, and this could only have been created by actual settlement, preceding the necessity, which obliges him to seek the benefit of the proviso, or by warrant.

I do not mean to say, that he must have had such an actual settlement, as this section requires to give a perfect title; for, if he had built a cabin, and commenced his improvement in such manner, as to afford evidence of a *bona fide* intention to reside, and had been forced off by the enemy, at any stage of his labours, persevering, at all proper times afterwards, in endeavoring to return, when he might safely do so, he would have been saved by the proviso, which was made for his benefit; this he has not done.

Decisions in the supreme court, and in the common pleas, of this state have been cited at the bar, two of which I shall notice for the purpose of pointing out the peculiar mark, which distinguishes them from the present, and to prevent any conclusions from being drawn from what has been said, either to countenance, or impeach, those decisions. The cases I allude to, are the Holland Company vs. Cox, and the alleged issue tried at Sunbury.

The incipient title, under which the plaintiffs claimed in those cases, were warrants, authorized by the 3d section of the law. The incipient title in the present case, is settlement. The former was to be completed by settlement, survey and patent. This was to preclude the warrant; and for the more distinct explanation of this distinction, it will be important to ascertain what acts will constitute an actual settler to whom a warrant may issue, and what constitutes an actual settlement as the foundation of a title. I have before explained who may be an actual settler to demand a warrant, namely, one who has gone upon, and occupied land, with a *bona fide* intention of an actual present residence, although he should have been compelled to abandon his settlement, by the public enemies, in the first stages of his settlement. But actual settlement, intended by the 9th section, consists in clearing, fencing and cultivating, two acres of ground at least, on each one hundred acres, erecting a house thereon, fit for the habitation of man, and a residence continued for five years next following his first settling, if he shall so long live. This kind of settlement more properly deserves the name of improvement, as the different acts to be performed clearly import. This will satisfactorily explain what at first appeared to be an absurdity in that part of the proviso, which declares, that "if such actual settler shall be prevented from making such actual settlement, &c." The plain meaning is, that if a person has once occupied lands, with an intention of residing, although he has neither cleared nor fenced any land, and is forced off by the enemies of the United States, before he could make the improvement, and continue thereon for five years; having once had an incipient title, he shall be excused by the necessity, which prevented his doing what the law required, and in the manner required; or, if the warrant holder, who, likewise, has an incipient title, although he never put his foot upon the land, shall be prevented by the same cause, from making these improvements, &c. he, too, shall be excused, if, as is required, also, of the settler, he has persevered, in his endeavors to make those improvements, &c.

But what it becomes such a grantee to do, before he can claim a patent, or even a good title, is quite another question, upon which I give no opinion.

As to the plaintiff's surveys and warrants, they cannot give him a title. Not the surveys, 1<sup>st</sup>. Because they are a mere description of the land, which the surveyor is authorized by the 8th section to make, and the applicant for the warrant is directed by the third sec-

tion, to lodge in the land office, at the time he applies for the warrant. It is merely a demarcation, a special location of the land intended to be appropriated, and gives notice of the bounds thereof, that others may be able to make adjoining locations, without danger of interference: that is not such a survey as is returnable, so as to lay the foundation of a patent. 2d. It is not authorized by a warrant? 3d. It was not for an actual settlement. 4th. It was not made by an authorized surveyor, if you believe, upon the evidence, that the authority to Steel was antedated, and given after the survey was returned. Not the warrant. 1st. Because it was not a warrant of title, but of acceptance. 2d. It is not founded on settlement, but improvement, and if it had recited the consideration to be actual settlement, the recital would have been false in fact, and could have produced no legal, valid consequences.

As to the caveat; the effect of it was to close the doors of the Land Office against the further progress of the plaintiff in perfecting his title. The dismissal of it again opened the door; but still the question as to title is open for examination in ejectment; if brought within six months, and the patent will issue to the successful party.

The plaintiff, therefore, having failed to show a title sufficient to enable him to recover in this action, it is unnecessary to say any thing about the defendant's title; and your verdict ought to be for the defendant. Verdict for defendant, accordingly.

See Addison's reports, 535, to 342.

In the case of Alexander Wright v. Brice McGehan, at Allegheny, November, 1801, (MS. Reports.) Action of covenant.

The action was brought on an article of agreement dated 8th of March, 1796, whereby the plaintiff had sold all his right and claim to an improvement of 400 acres north and west of the river Ohio, adjoining &c. in consideration of \$125, payable on 1st of May, 1796, and the like sum in one year thereafter; but if the population land company should hold these lands by their warrants then the consideration money to be returned to the defendant, without interest.

The defendant had paid no part of the consideration money. To show that the money was not recoverable, he produced a warrant dated 14th of April, 1792, to Michael Shubert for 400 acres north and west of Ohio, adjoining land granted to Marshall Spring; and a survey of 400 acres made thereon on the 13th of March, 1795, by John Power, D. S. The leading warrant had issued in the name of Matthew McConnell for 400 acres extending along big Beaver creek, near the falls thereof, and was entered in the books of James Carothers, then deputy surveyor of the district on the 10th of June 1793. Shubert's warrant was entered on the same day, and ninety one warrants intervened between them.

The plaintiff about the time of the survey made for Shubert, (or one or two days before it, as it probably appeared from circumstances, though the particular day was not shown by direct testimony,) erected a cabin about fourteen feet square on the land, covered it in, but without chimney or door in it; and sold his improvement to defendant: but no one had then lived on the land, or cultivated any part of it.

For defendant it was insisted that the plaintiff had no title to the lands sold, under his fancied improvement; and that want of title, without eviction was a good defence in an action for the price of the land sold. Addison, 128.

For the plaintiff it was urged, that under the law of 3d of April, 1792, it was enacted, that applications should contain a particular description of the lands applied for, (§ 3.) and it is provided by the act of 22d of April, 1794, that no warrants except those wherein the land is particularly described, shall in any manner affect the title of the claim of any person having made an actual improvement, before such warrant is entered and

surveyed in the deputy surveyor's books (§ 2) and the act of 22d of September, 1794, has the same proviso in favor of improvers, (§ 2) Here it may fairly be inferred that the house was built before the survey was made for the population company, which was the inception of an actual improvement under the law of April, 1794. It could not be contended that Shubert's warrant was descriptive of any particular ground: it depended on the location of ninety-two other warrants, and necessarily must shift its situation, according to the surveys made on the prior warrants. If such warrants must be postponed to improvements, then the title of the plaintiff was preferable to that of the population company: but if the house erected, should be thought not to merit the appellation of an improvement, still the plaintiff is intitled to recover the value of the house. The defendant, after contracting for the land, received the possession, and then purchased of the population company.

By the court, (Yeates and Smith:) The meaning of the agreement appears clearly on the face of it. If the title of the population company was better than the plaintiff's the latter was bound to return the consideration, if he had received it: but if the plaintiff had no title, the defendant was not bound to pay. The warrant being in descriptive, would give way to a *bona fide* settlement and improvement, if made previous to the survey, under the proviso in the act of 22d of April, 1794, but not to a land-jobbing cabin made without an intention of residence. The improvement meant in this law, can be no other than that described in the act of December 30th, 1786, and this fully appears by the act of 22d of September, 1794. On this point the court expressed the grounds of their opinion fully in *Meade's lessee v. Haymaker*.

But it is said, the plaintiff should be allowed for his cabin. Why so? No such provision was made in the article, if the title of the population company was preferable. The effect of a recovery by that company against the defendant, would be, that the judgment would be conclusive evidence against the now plaintiff. At present, the point of title is open for investigation by the present jury: and the court are clearly of opinion, that the want of title in the plaintiff is a good defence in the present suit, though there has been no eviction. Verdict for the defendant.

(To be continued.)

From the Harrisburg Intelligencer.

## IMPROVEMENT OF THE SUSQUEHANNA.

*Grand National Sloop and Steamboat Navigation, from the Atlantic Ocean by way of the Chesapeake Bay, Susquehanna River, Seneca or Cayuga Lake to Lake Erie.*

The following correspondence, between the committee of the citizens of Harrisburg, and the War Department, relative to opening a Steamboat communication from the Chesapeake Bay, by way of the Susquehanna, is the result of a meeting held at the Court House in Harrisburg, September 20, 1833. (See Register, vol. xi. pages 212, 232, 261.)

At this meeting resolutions were passed, declaring the project national in its character and advantages, and necessary for national defence. It also passed a resolution in favor of a similar improvement from Lake Michigan to the navigable waters of the Illinois, thus opening a Steamboat navigation from the Atlantic to the Lakes through the centre of the States east of the Allegheny, and through the centre of our Territory west of the mountains from the lakes to the Gulf of Mexico.

A general committee was then appointed, from which select committees, were chosen, to draft an address to the people of the United States; to draft a memorial to Congress, and to address the Secretary of War.

On the 17th of October last, Henry Buhler, from the Select committee for that purpose, published an Address to the people of the United States.

At the same time, George W. Harris, from a Select committee for that purpose, reported a memorial to Congress, which was published, circulated and signed by a large number of citizens in various parts of the country, and sent to that body at its last session. A bill favourable to the object, and making a specific appropriation for a survey, was reported by the internal improvement committee in the House of Representatives, but at so late a period in the session that it was not acted upon.

Henry K. Strong, from a Select committee appointed for that purpose, submitted at a meeting of the general committee, August 2, 1834, the following address to the Secretary of War, and correspondence with the Department, which was ordered to be printed, and the editors of the several newspapers throughout the United States respectfully requested to give it one insertion in their columns.

HARRISBURG, July 14, 1834.

Hon. Lewis Cass—

Secretary of War.

Sir:—As Chairman of a Committee of the citizens of Harrisburg, Pennsylvania, I am directed to address you on the project of opening a *National Sloop and Steamboat* Communication from the Chesapeake Bay, by the way of the Susquehanna River, *Seneca* or *Cayuga* *Lakes*, to *Lake Ontario*. The advocacy of such a magnificent project, may, at first, be startling; but when the facts are known, I do not doubt, that it will be deemed, not only practicable, but a measure of paramount National importance, rendered necessary by the late construction of similar works connecting Montreal with the Northern Lakes, by a rival nation.

The British have already connected Lakes Ontario and Erie, by the *Welland Canal*, nearly forty miles long, and large enough for sloops. They have also, by the *Rideau Canal* and slack water navigation of the *Ottawa river*, wide and deep enough for sloops and steamboats, and more than two hundred and seventy miles in length, connected *Lake Ontario* with the tide waters of the *St. Lawrence*. It is now in contemplation to enlarge these Canadian canals so as to admit ships of the largest burden. When this is done, if our own government neglect to open channels more than half formed by nature, the British will possess not only the mastery, but the commerce of the lakes, unrivalled and alone. These works have not been constructed, by a rival nation merely to draw from the States the immense trade, that will one day pour itself to tide water, enriching far and wide the country through which it flows, but to be enabled in time of war, to command the frontiers. It requires no foresight to perceive, that if nothing is done to counteract such an advantage over us, a sudden renewal of hostilities between the two nations, would fill the upper and lower lakes with British vessels from the Ocean, and carry desolation into our towns, villages and cities upon their banks.

But is the project practicable and within the means of Government?—It has been deemed within the means of one of the states, and if so, it can certainly be accomplished with the nation's funds. It would have long since been undertaken, had the territory, through which the route passed, belonged to any single state, and the inhabitants of that state, had all been equally interested. The project is strictly national, in the sense in which the present Chief Magistrate, defines national works. The fame of any public man who would be foremost in the accomplishment of such a splendid National project, would cast that of Clinton into the shade.

More than one half of this great work has been made by nature. It is in unconnected links, which only want forming into a complete chain. There is sufficient wa-

ter in the river Susquehanna from its mouth through Pennsylvania to the State of New York. It is a larger river than the Connecticut or the Hudson. The greatest difficulty to overcome in its navigation, is in the thirty or forty miles near its entrance into the Chesapeake Bay, where occasional ridges of transition rock run across the stream causing falls or rapids. Between these rapids or falls, are pools of deep navigable water sometimes extending for miles. The section of the river above this, extending about one hundred miles above Harrisburg to the Wyoming Valley, has no falls of any consequence. There is occasionally a ripple, in consequence of a ridge of rock running across the bed of the river, yet a rudely constructed steamb, as has traversed the whole distance. From the Wyoming Valley, about one hundred miles further north, to Oswego or Elmira, in the state of New York, there are no ridges, as below, in the transition rock formation, running across the Susquehanna. The whole country is of the secondary formation to the lakes, and the rocks are horizontal. Steamboats can now be run the whole distance of one hundred miles or more, from the Wyoming Valley to Oswego, in the state of New York. There is an association of gentlemen in Wilkes-Barre in Pennsylvania and Oswego, in the state of New York, who have already raised a number of thousand dollars, for the immediate construction of a line of steamboats to run this distance, for the purpose of towing vessels laden with coal from the Wyoming mines to Oswego, for the use of the salt works of New York, and in return, to be freighted with salt for the consumption of Pennsylvania. Perhaps no stronger evidence can be mentioned to show that the Susquehanna, with comparatively little expense, can be rendered navigable by steam, than the following fact. Eight years ago, a sheet iron steamboat built at York in this state, by an ingenious mechanic by the name of John Elgar, was put upon the river about twelve miles below Harrisburg, and 140 from tide water, and was propelled by steam to the line separating the states of Pennsylvania and New York, nearly two-thirds of the whole distance from the Chesapeake Bay to the lakes. If this was not the first iron steamboat ever constructed, it was the first that ever sailed upon American waters.

From Oswego, it is but about twenty miles north to the south end of Cayuga lake which is 40 miles long and navigated by steamboats, to a point less than twenty five miles from Lake Ontario. But Elmira and not Oswego, is the place, considered best, by some, where the route should leave the Susquehanna. This place is connected with Seneca lake, between 35 and 40 miles long, by the Chemung canal, twenty one miles long, which could be widened and deepened at a very small expense, so as to admit the passage of steamboats from the Susquehanna river to the lake. This lake is navigable for vessels of any size. Its southern end approaches the Susquehanna river within twenty miles, and its northern end, about the same distance fromodus Bay on Lake Ontario, one of the best harbors on the lake, where the government has already expended a considerable sum to render it safe and commodious. From the north end of either Seneca or Cayuga Lake to Lake Ontario, there is a canal already made to Oswego. But it is thought to be a better route to go directly to Greatodus Bay, as it is much nearer and entirely practicable, both on account of the easy excavation, and the abundance of water.

Such are some of the facts in relation to this splendid national project, which will be corroborated by engineers, if a survey is made. It has been estimated by men acquainted with the route, and long employed on the public works of Pennsylvania, that the whole improvement will not cost \$20,000,000. What is this sum compared with the national advantages which will be gained? If this work had been constructed before the late war, our national debt would have been more than \$40,000,000 less, and the success of our arms would

have been doubly glorious! You yourself, who participated in the events of that war on our western frontiers, know how much the country suffered by the want of such a communication between the sea board and the lakes, for the transportation of troops, provisions and munitions of war. But this was a time when the enemy was also without a navigable communication from the ocean to the seat of war. But the British profited by experience, and have constructed, and are now constructing, works which must, in case of war, inevitably give them the mastery of the lakes, and the command of the frontiers; unless our government, following the advice of Washington, "in time of peace prepare for war."

It may be said that the several Canals and Rail Roads which are now constructed and are being constructed from the Atlantic to the west, will answer the purpose. But let it be remembered that the N. York Canal is the only improvement that extends to the Lakes, and this is but a horse boat Canal, incapable of affording a speedy conveyance for an army, and the heavy and bulky baggage necessary for a campaign. Such a Canal would be of great service, but could not enter into competition, with the British Sloop and Steamboat Navigation from Montreal to Kingston, on which armed vessels, built in England, could enter the Lakes, before troops from many of the Atlantic States, could reach the frontiers.

Although this splendid project might stand on its merits as a work necessary for national defence, yet for inland commercial advantages, and the means of developing our national resources, it surpasses any thing ever yet contemplated.

*It will open a sloop and steamboat communication from the great Northern and Western lakes, to the Ocean, through the centre of the Union and to the Capital of the Union!* The great and increasing trade of these lakes, is an object of too great importance, to be suffered to pass down the river St. Lawrence, into the hands of a rival nation. That spirit of rivalry which has made the Welland and Rideau sloop and steamboat canals, and the slackwater navigation of the Ottawa river, must be met by a corresponding spirit in these republican States, or the great mass of this trade, will be lost to us forever. Your opportunities in the service of the United States, on the shores of the seagreat inland seas, have given you great advantage for estimating the amount and worth of this trade, when the tide of emigration now rolling from the East, shall have made Ohio, Indiana, Illinois and Michigan, rich, populous and powerful; created large commercial cities upon the banks of Erie, Huron and Michigan; and covered with smoking steamers the waters of Superior and the Lake of the Woods. Is not the day coming and near at hand when this trade, will be worth more to our union, than that of any nation in Europe? If so; and if it also be true, that trade cannot easily be diverted from an accustomed channel, should the commencement of this great national work be delayed a moment beyond the extinguishment of our national debt, when there is danger of losing this great source of national wealth forever?

The country, through which this route passes, is one of the most important in a national point of view, of any, in this, or any other country. It not only passes through one of the richest agricultural districts in the Union, and the great lumber country near the sources of the Susquehanna, but through the extensive Iron, Bituminous as well as Anthracite coal region of Pennsylvania, and near the Gypsum and Salt localities in the State of New York. These great sources of National wealth, now, from one to two hundred miles from sloop navigation, would if such a work were constructed be greatly reduced in price to every purchasing state on the Atlantic. These then, as well as the Western States, would be greatly benefited. The whole Union is a purchaser of the Juniata Iron; not a national ship is built without it; not a steamboat floats independent

of it; and hardly a workshop in the Union has it not. The Anthracite coal region, commencing in Lykens' Valley, about twenty miles above Harrisburg and about eighty from tide water, extends northward on the banks of the Susquehanna for more than one hundred miles. The coal is superior in quality and inexhaustible in quantity. From these mines, the world could be supplied while the world lasts. Is not, then, every Atlantic city and every Atlantic state, depending as they always must, upon Pennsylvania, for Anthracite coal, interested in reducing the price of what is becoming a necessary of life? This coal now sells in our Atlantic cities at eight dollars, and sometimes at twelve dollars a ton. It can be purchased on the banks of the Susquehanna, ready for shipment, for a sum not exceeding two dollars a ton. It will therefore be seen that this price would be reduced one half to the consumer, while the miner would be, at the same time greatly benefited.

These are but few of the advantages which would result, from the construction of this splendid national work. The inhabitants of the valley of the Susquehanna flatter themselves, that the time is not distant when the nation will undertake it. They look to you, possessed as you are, of a knowledge of the Lake country, as their friend in furthering this project, and cannot but anticipate a hearty response to their views.

Yours with great respect,

HENRY K. STRONG.

In behalf of the committee of the citizens of Harrisburg, Pa.

Hon. LEWIS CASS, Secretary of War.

I am instructed by the committee of the citizens of Harrisburg, to inquire whether a survey of the route could not be made during the present summer, by an Engineer in the service of the government, and if it can, whether the general government would defray the expense, and if not the whole, what part?

We had hoped that Congress would have made a specific appropriation for a survey. A bill was reported favourable to the object, yet it was so near the close of the session, that it was not acted upon. Will you be kind enough to answer this as soon as convenient, and particularize what, if any thing, can be done by the government.

Yours, &c.

HENRY K. STRONG.

Hon. LEWIS CASS, Secretary of War.

TOPOGRAPHICAL BUREAU, }  
July 18, 1834. }

Sir:—

I have the honor to acknowledge the receipt of your communication of the 14th inst. to the Honourable Secretary of War.

*The Department is fully impressed with the importance of the route which you describe with so much zeal and ability, and which you desire to have surveyed. But conditions and engagements of this office are such, that it will not be in its power to attend to it, during the present season.*

Believe me to be, sir,

Very respectfully,

Your obedient servant,

JOHN J. ABERT.

Lt. Col. T. Eng'rs.

HENRY K. STRONG, Esq. Harrisburg, Pa.

HARRISBURG, July 25, 1834.

Hon. LEWIS CASS, Secretary of War.

Sir:—

The great solicitude of the citizens of the valley of the Susquehanna, on the subject of an immediate survey of a route for a national communication by the way of the Susquehanna, from the Atlantic to the Lakes,

is my only apology in trespassing again upon your patience, after the receipt of the letter of Col. Abert.

I am directed by the committee of the citizens of Harrisburg to again ask, if an Engineer could not be furnished, provided the citizens will defray the expense of furnishing attendants, &c. ? Perhaps the department were discouraged at the length of the whole survey. I am directed to inquire, whether, if an Engineer cannot, consistently with the arrangements of the department, survey the whole route, one could not, some time during the season, survey the first hundred miles from tide water?

I am also directed to express the gratitude of the committee and of the citizens generally, for the interest awakened by their representations, with the assurance that they fall far behind the real advantages that will flow from this improvement. It gives us great satisfaction to be assured by Col. Abert that "*the department is fully impressed with the importance of the route.*"

Perhaps it may be as well to survey the first hundred miles, the first season, leading as it does to the centre of the iron and coal region of Pennsylvania. A report of the route thus far, would awaken public attention to the importance of the project.

Please to accept the report of Mr. Packer of our State Senate, on the coal region, which I will send you. It will be seen by this report that the anthracite coal trade was last year, five hundred and ninety thousand tons, amounting to about three millions of dollars, and yet not a ton reaches the Atlantic market, from the valley of the Susquehanna, where three quarters of the coal region lies, when it is much the nearest to market, if the Susquehanna was made navigable.

Yours in behalf of

the committee of

the citizens of Harrisburg.

HENRY K. STRONG.

Hon. LEWIS CASS, Secretary of War.

TOPOGRAPHICAL BUREAU, }  
July 30, 1834. }

Sir:—

Your letter of July 25th to the Hon. Secretary of War has been referred to this office.

It fortunately happens for your views that there is one party of Civil Engineers at this moment unemployed, and it will be sent to Harrisburg to call on you, in order to make a part of the survey for which you have applied.

Allow me to remind you that the Susquehanna river, from its mouth to the vicinity of Columbia, was surveyed and reported upon with views to the construction of a canal, a few years since by W. Roberts, and it may in consequence, be unnecessary to go over the same ground again. But the Engineer will be directed to take your views on this subject, as the expense [exclusive of one principal, two assistants and their instruments] is to be supplied by yourself, or the parties interested.

Dr. Wm. Howard, with two assistants are the Engineers who will be sent to you.

Very respectfully, sir,

your obedient servant,

JOHN J. ABERT.

Lt. Col. T. Eng'rs.

HENRY K. STRONG, Esq. Harrisburg, Pa.

#### NEW GOLD COIN.

TREASURY DEPARTMENT, }  
August 2d, 1834. }

The annexed letter will enable the public readily to distinguish the new from the old [gold] coins.

As the date could not, by law, be altered, but the cap and motto might be legally omitted, and would serve

plainly to distinguish the new impression, that course has been adopted at the mint till the commencement of the next year, when the motto will probably be restored and the date of the new year, instead of the omission of the motto, will be found sufficient to indicate the change in the coin.

Mint of the United States,

Philadelphia, 1st Aug. 1834. }

Sir—I have the honor to inform the Department, that the coinage of Gold, according to the new ratio of gold to silver, commenced this morning, being the earliest day permitted by the provisions of the act.

In making this communication it may be satisfactory to recur to the peculiarities by which the new gold coins are to be distinguished from those of former issue. They are the following:

On the face, the new coins will be readily distinguished by the head of Liberty disencumbered of a cap.

On the reverse, the surplus motto "E Pluribus Unum," which for many years has occupied a portion of the disk above the figure of the Eagle, is now omitted.

These changes, independently of the facility to be derived from them, in distinguishing the future from the past emissions of our gold coins, are recommended by a nearer adherence to the provisions of the law, as well as by the rules of taste and classic authority. The views, in these respects, presented in my communications of the 9th ult. having met your approbation, will, I doubt not, be sustained by the judgment of the public.

In regard to the omission of the motto above referred to, the same improvement was introduced in the quarter dollar in 1831; the subject having, by communication of the 29th January, of that year, been submitted to the President, through the Department, and approved.

The Eagle of the former issues weighs 270 grains, the Half Eagle 135 grains, and the Quarter 67½ grains. The eagle, under the present law, will weigh 258 grs., the Half Eagle 129 grains, and the Quarter 64½ grains. These weights are recited, because desirable to be kept in mind, rather than as affording a further criterion of distinction between the two classes of coins—since an inspection, much more cursory than that of weighing, will distinguish them by the preceding characteristics.

The Eagle and Half Eagle of the new coinage will be less in diameter than those of the former emissions, and that in a greater proportion than the diminution of weight would indicate. This, however, though a decided amendment of our coinage, is of less value as a distinctive mark, since the comparison would require the presence of coin of both classes.

I have the honor to be, with great respect, your obedient servant.

SAMUEL MOORE,

Director of the mint.

Hon. LEVI WOODBURY, Secretary of the Treasury.

#### WESTERN DIVISION OF THE PENNSYLVANIA CANAL.—

The communication, which we publish to day, in relation to this great improvement is truly encouraging.—The gradual increase of tolls, up even to July, must satisfy the public that this experiment will succeed.—*Pittsburg Gazette, Aug. 8.*

From the Pittsburg Gazette.

#### CANAL TOLLS.

PITTSBURG, August 2, 1834.

Mr. Craig.

Sir—Having the opportunity of making some inquiry into the prosperity of our State improvements, and being favored with a look into the business of your Collector's office, I was remarkably astonished at the very great increase of business this year over the last—it so attracted my attention that I could not forbear copying

the following items, which I transmit for public information—

Tolls for 1833.		Tolls for 1834.	
March,	\$203 94½	March,	\$907 05
April,	548 30	April,	1,324 77½
May,	581 10	May,	1,835 92
June,	576 95½	June,	2,509 47½
July,	498 28½	July,	2,720 60
<hr/> \$2,408 58½		<hr/> \$9,347 82½	

It may be seen from the above, for this year, there has been a steady progression every month in the amount of tolls received—also, that the sum collected is nearly four times the amount of tolls collected in the same months of the past year; and, although this is a prodigious improvement in the time when there appears a scarcity of money, I was assured that it is only the first fruits, for the fall trade is about opening, and it is expected to be very considerable; but this will be further increased, the next spring, by a new line of rail road, and the adoption of a line of passenger packets, which is expected to accomplish the trip, from this place to Columbia, in three days; other facilities will also be in operation about the same time, rendering to the Canal system a fair prospect of complete success.

August 4, 1834.

Bearing in mind that the prosperity of a country is influenced by an interchange of commodities, I was curious to ascertain what this western country had been enabled to give to the eastern markets—for this purpose I again made inquiry, and was obligingly favored with the following, being the principal articles of country produce sent through Pittsburg, by Canal, to the east for the month of July.—I think it must be satisfactory to every well wisher of trade, to be informed that there passed on this line of Canal—

Flour,	396,624 lbs.
Leaf Tobacco,	874,460 "
Hams, Bacon, Pork, &c.,	359 501 "
Wool,	204,914 "

Besides many other articles of somewhat less amount, such as Feathers, Beeswax, Ginseng, Cotton &c.—This, in my opinion, is sufficient to show the great advantage which this western country will gain by the facilities they now have of bringing their produce to market; and, also, produce a desire, in every part of our country, to further the completion of our Canal system.

## AN ADDRESS ON THE SUPPRESSION OF LOTTERIES.

Address to the people of Pennsylvania, and the United States—by the Pennsylvania Society for the Suppression of Lotteries.

The undersigned have been charged by "The Pennsylvania Society for the suppression of Lotteries" with the duty of laying before the people of Pennsylvania and the United States, the general evils of the lottery system, in connection with the reasons and objects of their own association. In the performance of the function assigned them, they cannot perhaps do better than to present, as introductory to both, a succinct history of their efforts to abolish lotteries in this state. This appears to be the more necessary, because their designs have been impugned and misrepresented, and because a simple narrative must, in its relations, shed light upon the general question in its various aspects.

From causes to which it is here unnecessary to advert, Pennsylvania, in the latter part of the year 1821, became a mart for nearly all the lotteries in the United States. Although the laws were armed with severe penalties to punish the sale of *foreign* tickets, the evil, in a few years, became so excessive that the drawings of

at least *fifteen prohibited* lotteries were regularly announced, in this city, quite as a matter of course, throughout the year. Our streets were overrun and deluged by lottery offices. The effects of so extensive a traffic were obvious. They were seen in the number of insolvents; in the multiplication of tippling-houses; in the de-olation, want and misery of the domestic fireside; in the increase of pauperism, immorality and crime. Efforts were made to stop the progress or restrain the influence of this de-olating scourge, but without success. Transgressors had so long enjoyed impunity that they almost claimed it by prescription.—No prospect presented but passive submission to a state of things at once pernicious and disgraceful. The traffic had so mingled itself with the feelings of our citizens that *hundreds of persons* were known to pursue the purchase of lottery tickets as a regular means of subsistence. The subject at length attracted the attention of a number of gentlemen who aimed at remedying the evil by its extirpation. In the year 1831, these gentlemen issued a report upon the illegality, abuses, and mischiefs of the system. They likewise addressed to the legislature a memorial in which they enforce, in strong language, the necessity for its immediate interposition. These contributed to arouse the public to the magnitude and means of eradicating a disease, which, as men happened to view it, had been esteemed either as very trivial or altogether incurable. Other publications were issued under the same sanction, and followed by similar results. On the first day of March, 1833, a law was enacted, declaring all lotteries of Pennsylvania unauthorized and illegal. The act was not to go into effect until the 31st day of the subsequent December, thus allowing, to persons engaged in the lottery business, a period of ten months for the selection of some other and more useful pursuit. It had been in operation only a few weeks, when intimations were made that it was violated. To avoid, if possible, the necessity of instituting prosecutions, offenders were warned through the public prints of the consequences likely to ensue from disregarding a statute so highly penal in its character. Notwithstanding this humane caution, accompanied as it was by the republication of the act itself, assurances were daily received that the violations were unremitted and extensive. Much expense had been incurred and labour expended, and the legislature, after mature deliberation, had solemnly declared that lotteries were detrimental to the interests of society. The supposed benefits arising to the cause of internal improvements in Pennsylvania, were, in its opinion, counterbalanced by their injurious effects. The question then occurred whether something worse than the former condition of things could be passively tolerated? Whether Pennsylvania should be allowed to contribute to the public improvements of Delaware, Maryland, Virginia, Rhode Island, and other places, in a way which she had emphatically denied to herself? Whether, in a word, she should pour her treasures into the lap of other states, for the purpose of obtaining all the evils, without any of the promised advantages of the system? No alternative remained but to rest satisfied with an act, which, while it denounced high penalties against offenders, was to lie inoperative and despised upon the statute book, or to make a vigorous effort to carry it into execution. As no disposition was felt to accept of a *nominal* abolition, a mere ideal shadow, while we had been struggling for the substance, the present association was formed. One of its express and fundamental purposes is, to aid the public authorities in carrying the law into effect, and as connected with this, to promote the enactment of similar laws, and the formation of similar societies throughout the Union.

Soon after the institution was organized by the adoption of rules and the election of officers, abundant proof was furnished that it had not been formed in vain. Four persons, who we had reason to believe, had followed

as a business the sale of tickets, were apprehended and held to bail in considerable sums. One of these has been already convicted at the recent session of the Mayor's Court, and sentenced to undergo imprisonment in the county gaol for the period of three months. In the prosecution of its objects, the association is resolved to encounter, with all its energies, the labour it has undertaken; and to put in requisition all the honorable means it can employ, to vindicate the majesty of the law by dragging its offenders to punishment.

The history of the lottery system in Pennsylvania and other states, clearly demonstrates that a milder policy, a less uncompromising principle of action, would leave domestic legislation ineffectual and powerless. In this state foreign tickets have been prohibited from the earliest period, and from the earliest period have been extensively and even openly sold. The violations of the law of 1833, so fearful in penalties, furnish additional evidence of the inadequacy of unaided legislation. In Massachusetts, after the legal abolition of their domestic system, and the prohibition of foreign tickets, the painful case of Aekers occurred, at once a melancholy instance of their baneful and ruinous effects. It was ascertained by a committee of the legislature appointed soon after the case of embezzlement and suicide became known, that the traffic was carried on to a very great extent, and that in the city of Boston alone, it then exceeded a *million a year*. Nothing less than superadded guards and penalties, assisted by a society modelled upon similar principles with our own, could stop so devious and headlong a torrent. These, it is supposed, have at length excluded it from the limits of Massachusetts. In New York, though the system is legally at an end, and the revised Constitution disables the legislature from ever making a lottery grant, there is reason to believe that the law would be infringed but for the existence and patriotic exertions of a similar society. No grant is in being in New Hampshire, and the sale of foreign tickets is made penal by successive acts of the legislature. But in open defiance of law, tickets, up to a recent period, were sold by nearly every bookseller in the state; and the mania for lottery speculation pervaded almost every class of the community. A like remark is applicable to New Jersey. No grant is known to be in operation; urgent applications for the privilege have been repeatedly refused; and pecuniary penalty is annexed by law to the sale of foreign tickets. In the face of this prohibition, the traffic is carried on without even the appearance of concealment, and every art is employed to extend and ramify the business. In Ohio, Vermont, Maine, Michigan, Louisiana, and Connecticut, the lottery system is destroyed, so far as its destruction can be effected by the simple authority of law. We have no precise information whether in these states the law is observed or infringed, but judging from what has taken place elsewhere, and the adventurous spirit of the trade, it is feared that the abolition is merely nominal. The importance and necessity of forming associations to guard these states from the evils they are anxious to eschew—to guard their citizens from injury, and their laws from violation—need scarcely be pressed by formal argument. Experience, that sure teacher, has fully proved that personal vigilance will always be requisite to prevent the sale of tickets, since it can never with safety be remitted or relaxed, until the system is exploded in every section of the confederacy.

When this desirable result shall be attained, it is difficult to conjecture. The lottery system, at present, prevails in about half the states in the union. In Virginia, it is highly probable that its career will have a brief continuance. In North Carolina and Illinois it is already virtually abolished. It is pleasing to anticipate the triumph of correct principles, not only in these, but in all the other states, so far as to induce the legal extinction of so ruinous and destructive a policy. Why it should receive the sanction of law in this country after

the sad experience of England, whence it was derived, can only be explained by ascribing it to the distorted visions of erroneous economists or the insidious influence of evil example.

The evidences of its corrupting tendency and inefficiency, as a financial resort, are almost too numerous and palpable to require exposition. We may, however, be permitted to refer to the "Survey" published by the gentlemen who now form the Society for the suppression of lotteries, as furnishing many examples of its direful and pernicious results. In that work are recorded nearly one hundred cases, each sufficiently authenticated, of pecuniary or moral ruin occasioned by indulgence in lottery speculations. Where the victim of this false and seductive game is unsuccessful, as must happen from necessity in the proportion of almost ninety-nine cases to a hundred; he is incited by the temptations of desire to new trials of his fortune; each shred and fragment of his dwindling property is put under contribution, and recklessly staked, till the last is exhausted. His mind debased by evil companionship and idle habits, and enervated by illusive calculations and inordinate hopes, is robbed of its native virtues and its native strength. He sinks a worthless, abject, and degraded wretch into voluntary pauperism, or is driven to the commission of vices and crimes which render him the disgrace of his friends and the bane of his country. When *good fortune*, so called, is the fate of the adventurer, it is, perhaps invariably followed by the ruin of his virtue and his peace. It rises him to a sudden pinnacle which renders him dizzy; he looks with contempt upon the humbleness of useful labourers below. His brief career, marked by wasteful extravagance and licentious folly, ends in bankruptcy. From the dreams which he has indulged, and the habits he has fostered, he is rendered completely the sport, as he has been the victim of chance, he is ready to go whithersoever the tide of accident or passion may carry him. We do not draw from fancy an overcharged and visionary picture; the reality far transcends the feebleness of such a portraiture. Out of the many examples we might adduce, we present one which may suffice. A man of correct and attentive habits, who kept a shoe store in this city, and was known to be doing well, ventured, two or three years ago, in the lottery, and drew a prize of thirty thousand dollars. He abandoned his business, commenced a course of prodigality and excess, and grew very intemperate. He lately died insolvent of *mania a potu*. Such instances might be multiplied, but we forbear in an address of this nature.

The effects of the lottery are not confined to the adventurer alone. The domestic misery it entails, the dark passions which it engenders and cherishes, are to be read in the hapless story of many an ill-fated family. It is only necessary to peruse well authenticated examples of its influence to be satisfied, that it presents in the aggregate as much and diversified wretchedness, as much and multiform vice and crime as any engine which the genius of man has invented for the affliction and debasement of his fellow. One trait of the lottery, as distinguished from other gaming is, that it leads into its vortex the poor, the laborious, and the simple, no less than the swaggering gamster, the idler and the libertine. By the minute subdivision of tickets, a chance is brought within the means of the chimney-sweep, the servant, and the apprentice. When by successive losses these means are exhausted, they resort to theft with the view to a further venture. Again, they are disappointed, and again they steal, until by repetition the sense of honesty is blunted or gone; they increase in the amount and character of their frauds until they become fit inmates of a prison or penitentiary. But unheeding distinction or restraint, it ascends to the elevated stations in society. The desire of immediate wealth is often found to be irresistible. This desire, by indulgence, becomes an engrossing passion. Speculations in the lottery can be carried on in secret. It is thus

that even the most estimable men are decoyed from the path of virtue and propriety, who would shrink from the infamy of ordinary gambling; they embark by little and little; an occasional gleam of *good fortune* and the flattering promises of their lottery friends, keep alive, in its intensity, the ardour of hope, until they grow desperate, and are ruined.

If it be thus injurious to the citizen, the objects for which it is intended, the public purposes to which it is applied, furnish little palliation. If it be an engine of private mischief, it is little apology to say that it was designed for a public good. But in the examination of the public benefits it confers, we shall find that the lottery system, considered as a public measure, is as deceptive and illusory as the promises which each successive scheme holds out to its votaries. In England, it is acknowledged, that it occasioned a positive loss to the government, by producing an amount of pauperism which its profits were wholly insufficient to countervail. In this country, when we consider its pervading and undistinguishing influence, the victims it allures, the extent to which they adventure, and its calamitous effects, as shown by the records of our insolvent courts, almshouses, and prisons, there can be little doubt that a computation would lead us to the same result. The benefits to the community accruing from lottery grants, have been sadly overrated. In many instances, they not only scatter far and wide the seeds of poverty and ruin to the purchasers of tickets, but they produce insolvency in the recipients of the grants themselves. Witness the declarations of Yates & McIntyre, in their petitions to the legislature of Pennsylvania, on the subject of their contract with the Union Canal Company. Two lotteries of Mine, authorized in the year 1831, after issuing schemes to the amount of \$60,000, were able to leave only the miserable pittance of \$14 21 in the treasury, after paying the disbursements. The Plymouth Beach Lottery, authorized by the legislature of Massachusetts, in the year 1812, issued schemes in the course of nine years, amounting to \$885,439 75. The whole sum realized to the town of Plymouth, from these large issues, was the inadequate total of \$9,876 17. A still more striking illustration is presented in the case of the Union Canal Company. The grant was originally to two companies, who, between the years 1795 and 1811, a period of sixteen years, succeeded in raising the sum of \$60,000. At the latter period referred to, the grant which terminated with the last year, was made to the existing corporation for the purpose of raising \$340,000. In the twenty-two years, during which this grant was in existence, schemes were issued, exceeding the frightful aggregate of *thirty-three millions of dollars*, without yielding to the company the sum authorized by the grant.

It is evident from this exhibition, that either from the enormous expenses incident to the system, or from the extravagant and defective mode of its administration, prodigious sums are extracted from the people without a corresponding return—that schemes may be issued amounting to thousands, without producing a *single hundred* to the object in view! Considered as a tax, or a means of revenue, it is to be deemed unwise, impolitic, and defective, since, by the immense assessments which it imposes, it must exhaust the pecuniary abilities of a people. It is unequal in its operation, because it is not a burden levied with justice in proportion to the amount of property enjoyed, but comes from the idleness, the poverty, and the recklessness of its contributors. As it depends for its encouragement upon vice or credulity, it must impart alient to those dispositions and qualities, the prevalence of which is indispensable to its success.

In this connection are to be viewed its effects upon those public institutions, whose end is to elevate the character of the citizen, and to arrest the career of vice and crime. Public schools, houses of refuge, and penitentiaries for solitary confinement, have all a common object. They exist by the public bounty, and rest upon

the admitted principle, that virtue is necessary to the permanence and enjoyment of free institutions. Does not the lottery system conflict, in all its remote bearings and immediate results, with the success and policy of these? Why should money be expended in the suppression of vice and the encouragement of virtue, while a system is protected and sanctioned for raising money out of the most pitiable weakness of the mind and the worst passions of the heart? If the public coffers be an object superior in importance to popular virtue, why are immense sums expended in the establishment of charitable and philanthropic foundations? If revenue is to be put in competition with morals, it would be well, for the sake of legislative consistency, to break up those schemes of benevolence for the improvement of morality and the melioration of intellect, which require the expenditure of money in their cultivation. The more the subject is considered, the committee are persuaded, the more indefensible it will appear in itself, the more incongruous with the general spirit of our institutions, the more at variance with the happiness of the people, and the more inimical to the welfare of the country. It is respectfully submitted to the patriotism of those states in which it exists, that in destroying the lottery they only weed out a poisonous exotic, whose noxious and rank luxuriance in pervading the land and blighting all our indigenous fruits, shows itself to be wholly unsuited and repugnant to the genius of the American soil.

On behalf of "The Society for the suppression of Lotteries,"

ISAAC COLLINS, MATTHEW NEWKIRK,  
JAMES J. BARCLAY, GEORGE M. STROUD,  
WM. M. MEREDITH, JOB. R. TYSON, *Committee.*

*An Act for the Abolition of Lotteries in Pennsylvania.—  
Passed the first day of March, 1833.*

Whereas, by certain acts of Assembly heretofore enacted, the right to raise, by way of lottery, certain sums of money, was granted to the Union Canal Company of Pennsylvania: And, whereas, it appears to the Legislature that the said right has been fully exercised and exhausted: And whereas, all other rights to raise money by lottery, heretofore granted by the Legislature, have either been exercised or exhausted, or have been abandoned, and it being the intention of the Legislature to put an entire stop to the evils arising from lotteries and the sale of lottery tickets:

SECT. 1. Be it enacted, by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That from and after the thirty-first day of December, one thousand eight hundred and thirty-three, all and every lottery and lotteries, and device and devices in the nature of lotteries, shall be utterly and entirely abolished, and are hereby declared to be thenceforth unauthorized and unlawful.

SECT. 2. And be it further enacted by the authority aforesaid, That from and after the day aforesaid, any person or persons who shall sell or expose to sale, or cause to be sold or exposed to sale, or shall keep on hand for the purpose of sale, or shall advertise or cause to be advertised for sale, or shall aid or assist, or be in any wise concerned in the sale, or exposure to sale, of any lottery ticket or tickets, or any share or part of any lottery ticket, in any lottery or device in the nature of a lottery within this commonwealth, or elsewhere, and any person or persons who shall advertise or cause to be advertised, the drawing of any scheme in any lottery, or be in any way concerned in the managing, conducting, carrying on, or drawing of any lottery or device in the nature of a lottery, and shall be convicted thereof in any court of competent jurisdiction, shall, for each and every such offence, forfeit and pay a sum not less than one hundred dollars, and not exceeding ten thousand dollars, or to be sentenced to undergo an imprisonment not exceeding six months, at the discretion of the court.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

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AN ADDRESS BY JOHN SERGEANT, LL. D.

*An Address, delivered before the Alumni Association of Nassau-Hall, on the day of the Annual Commencement of the College, September 25, 1833.—By JOHN SERGEANT, LL. D.—At Princeton N. J.*

Brethren of the Alumni Association—

The venerable Institution which this day receives the renewed expression of our affectionate duty and respect, is associated in our recollection with an interesting period in our lives. From the calm shade of the College, where he has been sheltered and nourished, the student goes forth into the world, and finds himself in a great measure left to his own guidance. The first moment is one of enjoyment. Freed from the restraints of discipline, his existence seems to be concentrated in the single sensation that now, he is his own master. This is the point to which his thoughts, his hopes and his wishes, have been long directed with eager anxiety—he has reached the horizon that has hitherto bounded his little world, leaving all beyond to be filled up with the creations of his youthful fancy. Very soon, however, if he be capable of considerate reflection, he perceives that he has only taken a new departure, and that the stage which is before him requires a still more vigorous exertion of manly resolution and manly strength. Nor does it admit of a pause. While he is yet taking an affectionate leave of the guardians and instructors of his youth, and bidding adieu to the companions of his studies and amusements, even then, when the feeling of gaiety is checked by the unavoidably painful consciousness, that the relations which are thus terminated can never be restored; in the midst of the tumult which agitates him with unusual emotion, he must look through the tear which lingers on his eye, to the world that is opening upon his view, and apply his hand, warm from the parting embrace, to the work that is before him, cold as it may seem to be.

Such a transition forms an epoch in the life of man. It is an epoch full of the deepest interest. And how can it be otherwise? If the education of youth be of that momentous importance, which mankind have always agreed that it is, its closing scene, the moment when the work is pronounced to be ended, whether its purpose has been accomplished or not, the last affectionate lesson, conveyed in the benediction and charge—the heartfelt invocation of Heaven's guidance and protection for those who are going forth—the solemn and the earnest effort to send with them a deep and final impression of the paternal spirit which has watched over and nurtured them in the days of their pupillage—the anxious solicitude that is in every way manifested for their future welfare—all these are so many affecting admonitions that one great opportunity has gone by, never to return.

To this point in our existence the memory will often recur in after years. How many recollections will be associated with it! How many inquiries will be suggested by it! Our venerable Alma Mater, does she continue to enjoy undiminished health and strength, and to spread before her children with affectionate kindness, the daily provision of wholesome nourishment? The ministers of her dispensations, those who

devoted themselves to our service with untiring diligence, where are they? The companions of our youth, how has it fared with them? And when as upon an occasion like this, we come within the walls where our early days were passed, and find ourselves after years of absence, again associated with the objects of our acquaintance in times that are long gone by, as well as with a portion of the remnant of that living assemblage which gave them animation and interest, it is then that the fading picture is restored, mellowed by time, but disclosing to us affecting realities, which had escaped our attention while we were ourselves a part of the moving groups? It is then that the question will recur—why were we here? But this question is immediately superceded by another, bringing it to the test of experience—what permanent advantage has any one derived from having been here? What influence has education had upon his after life? Has it made him wiser and happier, a better citizen, a more useful member of society?

As often as questions like these recur, (and to thoughtful minds they will recur very often,) the first reflection they produce will be, that every advantage in life is attended with correspondent obligation. In proportion to the talent committed to us is the claim for its improvement. If from our earliest infancy we have been watched over with parental solicitude; if unceasing pains have been devoted to aid the development of our faculties; if, as we advanced and the first nourishment of children became too weak for our increasing strength, the labors of learned and pious men have been engaged to carry on the good work of moral and intellectual discipline; if in mercy we have been permitted to arrive at the age of comparative maturity, unstricken by disease or infirmity, and to enter upon the duties of life with faculties unclouded and health unimpaired; if, in a word, we are committed to ourselves in the enjoyment of the blessings of a reasonable measure of bodily strength, and with the benefit of all the advantages to be derived from the unwearied application of experienced wisdom to our improvement, we must be wanting in duty to ourselves, unmindful of what we owe to others, and ungrateful for the bounty of heaven, if we do not rightly appreciate and adequately secure the rich patrimony which has been thus provided for us.

In this process of examination, the first point in order and not the least in magnitude, will be that interesting epoch already mentioned. The day of leaving College will be ever present to the memory, in a review of life, and will be regarded with pleasure or with pain, exactly as a conscientious judgment may be able to pronounce that it has been reached with honor, and its good fruits gathered as they ought to be.

But let us not be misunderstood. It would neither be just, nor rational to conclude, that individual merit in this respect is to be precisely and finally graduated according to the comparative eminence that may be attained; still less that all are to be considered as having failed, who have not attained the very highest distinction in College. Slight shades of difference in intellectual energy, a less advanced state of the faculties, accidental disturbance in study, temporary loss of health, many things not depending upon himself, may cause a stu-

dent's name to be associated with a number below the first. It happens, too, and deserves to be especially remarked, for the consideration of parents, and of all who are charged with the care of the instruction of youth, that a failure in the competition for the highest honors of the College, is owing sometimes to defect in preparatory education. If that has been defective and insufficient, there is a want of strength for the trials of the collegiate course, which can only be supplied by uncommon abilities or extraordinary application. Very often, however, this sense of comparative weakness developed in the exercises of the College, becomes a discouragement to exertion, and the young aspirant yielding to what seems to be an invincible obstacle in the path of a just ambition, abandons himself to indolent despair, and sinks below the level he might really have attained without any very undue effort. Of the permanent ill effects of such despondency, which every day becomes deeper, as its consequences are more and more felt, until it settles into a permanent feeling of self-abasement,—of the probability or even the possibility, that it may enfeeble the character for life, disappointing and destroying the hopes of friends, and turning to naught the time, the labor and the expense bestowed for his improvement, it is needless to speak. Let us hope that they seldom occur, at least to the whole extent that has been suggested. That they may occur, in any degree, even though it be far short of the measure of calamity, supposed to be possible, is one among many arguments, that might be urged to enforce the duty of parents and guardians who are intrusted with the care of children. They cannot be too often, or too anxiously reminded, that upon this point the responsibility is theirs. The examinations for admission into College will, to be sure, exclude the cases of plain deficiency—though not even then, without encountering resistance and complaint;—but that fulness of preparation, which will give confidence and strength, and enable the student to apply himself to his task, with all the power at command which ought to be brought to it, depends upon years of previous careful instruction and discipline—nay, it depends upon every moment of those years, and hence the indispensable necessity there is, and the high obligation resulting from it, that every moment shall have been well employed, under the direction of able and conscientious teachers.

It is a mistake to suppose that this portion of education may be committed to feeble and incompetent hands—that it may be negligently conducted without much injury—and that all its omissions and defects are to be made up and supplied during the few years that are passed in College. This is what a College does not profess to do. It is what a College cannot do. Its professors, however learned, cannot bring back the time that has gone by, nor cause the work to be done, which that time was allotted for performing. If it were allowable at present to dwell longer upon this subject, it might be added with unquestionable truth, that the examinations for admission into College ought to be considered as the disinterested judgment of enlightened and competent men upon the progress that has been made. There can be no motive for unreasonable strictness. The bias, if any there be, must be on the other side. There is great danger, indeed, that the motives for undue laxity will be too much increased, since institutions professing to teach the higher branches have become so multiplied in our country; some of them struggling for a precarious existence, with the fear of poverty always before their eyes. But if in the faithful discharge of their duty, as examiners for admission into College, professors are obliged to make known to parents, that their children are not qualified, however unwelcome such a communication may be, parents, if considerate, will receive it, as information given to them, for their own benefit, and instead of complaining, or seeking to evade its effects, by appealing to a more liberal tribunal, or a more indulgent in-

terpretation, will profit by it, for the benefit of their offspring, by sending them to places of instruction, where their defects can be supplied. A little more time may qualify them to enjoy the advantages of College. What will they be profited by entering College, if they be not so qualified? At best, they can reap but a barren honor. And this is not all. If when their course is finished, they are found to be deficient in the proper requirements belonging to a collegiate education, they are degraded in the estimation of others, as wanting in capacity or industry to profit by the opportunity they have enjoyed. What seemed to be an advantage, thus becomes in effect, a most serious injury. The whole matter may be thus summed up. The work is in fact but one. The preparatory education is the ground-work. The collegiate education is the structure raised upon it. If the former be wanting, the latter has nothing to rest upon. If the one be defective or unsound, the other will be imperfect and insecure. Should it become necessary in any given case to decide which of these shall be dispensed with, (both being unattainable,) there can be no hesitation whatever in making the decision. An attempt to build without a foundation is too obviously absurd to require to be insisted upon, and any scheme, however plausible, which professes to accomplish such an end, must inevitably originate in ignorance or imposture.

A College may perhaps be so organized as to do the work of a Grammar School, and then it ought to be considered as a Grammar School, and nothing more: but if it undertake to do the proper work of a College, without the aid of suitable preparatory instruction, it will graduate pupils who with their Bachelor's diploma in their hands, could not be received into the lowest form of a conscientious and well arranged institution, without a violation of its statutes, and, (if it be not a contradiction to say so,) an egregious imposition upon their parents.

Long as this digression has already been, it is impossible to leave it, without an additional remark. After what has been said, very little reflection is necessary to enable any one to perceive, how important a place in the work of education is occupied by what have been denominated preparatory schools, by which of course we understand to be meant, those schools where pupils spend some of the years, which precede their being presented for admission into College. Yet, it is more than doubtful whether their value is justly appreciated; or those who labor in them as teachers, are in general estimated as they ought to be. The name may have some influence. They are denominated Schools, which at the same time that it places them in the relation of inferiority to Universities and Colleges, seems to confound them with the greater part of the class designated by the same term, and occupied only with the instruction of children. They are affected, too, by the fact, that their pupils, when received into them are really children, and a large portion must always be actually of that description. But while to those who take a careless or superficial view, it has thus the appearance of a children's school, it will be found to embrace a portion of life when the development of the faculties is more rapid, and the transition greater, than at any other period whatever. Compare a boy, for example, of ten years of age, entering upon a course of discipline like that we have been speaking of, with the youth of fourteen or fifteen who has passed through it. What a difference there is in his moral and intellectual power? How much may have been determined for his future character and habits? His success in College, as we have already seen, may depend upon it, and the character and the self-respect with which he enters upon the larger scene of life may be influenced materially by that success. Nor must it be forgotten that the entrance into College is the period when the first considerable change of discipline takes place. The pupil is no longer to be so much in the presence of his teacher,

nor under his immediate personal inspection and control. He is to be left more to his own government, rendering an account of his conduct, at stated periods, by the ability he manifests to perform his tasks in the recitation room. For this change too, he is to be prepared. A most serious one it unquestionably must be, since it commits to him at once the direction of so large a portion of his own employment, and requires him to make the first serious essay, (which through all his life long, he will be obliged to repeat, if he mean to be a rational creature,) of his capacity to sacrifice present inclination, for the attainment of future advantage—to make his appetites and his passions yield to his sense of duty.

Enough it is hoped has been said to give some faint and imperfect notion of the nature of the charge which devolves upon him who undertakes to conduct this portion of preparatory education. In proportion as it is arduous and important, ought the teacher who faithfully acquits himself of it, to be treated with respect and consideration—not for his own sake merely, and as due in justice to honest and valuable services of a very high order—but for the sake of society, for the sake of parents, for the support and advancement of the great interests of morality and learning. All are deeply concerned, and there is little hazard in asserting that the finishing department of education can never be what it ought to be, unless the department where so large a part of the substance and body of the work is prepared, be sustained at its proper elevation, by an adequate public estimate of its value, and a suitable regard for those who labor in it with diligence and effect. Let them be judged, not by ridiculous promises, which any one *may* know can never be fulfilled—not by assurances of short and easy methods—not by a vain display of trifling accomplishments, or precocious and ephemeral acquirement to captivate the ignorant;—but by the fair fruits of discipline and instruction, coming in season, gradually unfolding their beauty, and at length, attaining their full size, and ripening according to the order of nature.

But to return after this protracted departure, to the point from which we set out. It is not necessary to enter at all into the question how far the judgment of a learned and impartial faculty, in estimating the capacity and merits of the students sent forth from the institution, is invariably confirmed by the judgment of time;—whether the earnest given of comparative eminence in youth, is sure to be followed by distinction in riper years. In looking through the annals of Nassau Hall, now embracing a period of almost ninety years, and resplendent with the virtues and honors of her children, one cannot help believing that the efforts of piety and learning, here applied with unremitting diligence, have been signally blessed and prospered. Into what field of usefulness in our country, into what scene of exertion where good was to be done, or right honor to be gained, shall we look, without finding *her* sons among the most distinguished? And of those who have thus been signalized; we shall find in general, that their youth was marked by the rewards of diligence and good conduct. There may be exceptions—doubtless there *are* some. But they are only exceptions, few in number, and bearing no proportion to the multitudes whose future life has been characterized by a continuance of the same habits which fixed their station here, bearing testimony of the most conclusive nature, to the just perception and fair decision of the authorities of the College, as well as to the enduring power of good discipline and instruction. Let no one then flatter himself, that he can redeem the time he has thrown away in his youth, or that he will be able to cast off the unhappy influence of the vicious propensities he has indulged at the expense of his reputation and standing in the place of his education. It may happen—undoubtedly it does happen—just often enough to entitle it to be ranked among the possibilities, which like the prizes

in a lottery, that can fall but to the few, serve nevertheless to delude and mislead the many, often to their ruin. Every day has its appropriate work, sufficient to occupy it fully. A rational being can commit no greater error than to indulge himself in the indolent hope, that the day which is to come, will bring with it more powerful incentives to virtuous resolution, than that which is present, or that besides its own proper duties, it will afford him time for the performance of those which have been previously neglected. And if it could, will the opportunity that has been neglected and lost, ever return? To come directly to the very point in question, can he who has wasted the precious time allotted for instruction in College, rejected the counsels and aid of its learned preceptors, when they were offered to him, and heedlessly and unprofitably outlived the age, and outgrown the stature of a pupil—can he promise himself that these advantages will ever return? No; if he will reflect, he will be obliged to confess, that it is almost impossible. He may perhaps repair, to some extent, the injury that has been done. But how will he accomplish it? By solitary labor, unaided, or irregularly aided—by means the best he can employ, but defective and insufficient, and not to be compared with those which in his folly he has thrown away—so that at last his achievement will be imperfect, and short of what it might have been. And if he succeed at all, what will it cost him? To say nothing of the shame and mortification and self reproach, inseparably attendant upon the awakening sense of conscious inferiority—of the sighs of regret, and the pangs of repentance, for his irrational folly—of the perplexing and anxious doubts that *will* haunt him whether he will be able to redeem himself by any exertion he can make—to omit even to contrast the gloom which from all these causes will seem to surround him, with the cheerful light that would have played upon his footsteps if he had always walked in the path of duty—passing all this by, what, we repeat, has it cost him? A portion of time which ought to have been devoted to other attainments, and might have been so devoted, is taken from its proper purpose, to make up former deficiencies. The fund for to-day is consumed in paying off the arrears of yesterday. Life is too short to allow of such deductions. It is long enough, if properly employed, but it has not a moment to spare for repairing wanton waste.

Besides—the days of our life, though, like so many pieces of coin, they are all of equal value, are not, like this servant of commerce, equally applicable to every purpose. If they are numbered, so are they assuredly marked. From the first budding of the faculties through all their growth, there is an arrangement of them discernable, admirable in itself, and admirably adapted to the perfection of the whole. In the earlier stages of existence, eager curiosity is diligent in collecting, and the storehouse of memory, unoccupied, and with all its avenues clear and unobstructed, is ready to receive and to retain what is deposited. As we advance, reason begins to act her part, at first feebly and with hesitation, but from day to day with increasing confidence, if not with increasing strength. Passion and appetite, also, become tumultuous and clamorous, requiring the continual exercise of our better nature to keep them in due subordination, and give to their impulse the right direction. The moral sense, too, the sure guide within us, begins to be developed, the faithful witnesses and monitor, the immediate manifestation of Divine wisdom and goodness, without which all would be chaos and disorder. We arrive at length at the period when childhood has not ceased, and manhood has not begun, but when there is, as it were, a divided empire between them, neither being ascendant, but each contributing something of its powers, to prepare for the moment when manhood ought to assume the whole dominion. Curiosity is still sufficiently awake, the memory is tenacious, and both are as yet undisturbed by the cares and perplexities which fill up

so large a measure of our later years. This is the season for learning and discipline, indicated by the law of our nature, and it is quite certain that the indication cannot be neglected without great injury. If it were not to enter too nicely into the matter, it might be further remarked, that to this period there is an indulgence by common consent, which makes some things almost becoming and graceful, which at a later time would be deemed offensive or ridiculous. Every movement of an infant is said to be graceful. Its little limbs cannot be thrown into a position which strikes us as awkward or ugly. So it is with the time of life we are speaking of, considered with reference to wholesome intellectual movement. A little vanity may be indulged, some display—manifestations, though they be inordinate, of a sense of the importance of his pursuits, and of his own success in them, even a little of what is called pedantry. We know that they will be proud of, and in the mean time the nourishment he receives is entering deeply into the intellectual and moral constitution, preparing it to present the harmonious and well proportioned combination which makes up the character of an educated man. In a riper age will such indulgence be allowed? A child that has taken its first lessons in dancing, may be excused if for a few days it forgets to walk but in the steps of the school, or to stand but in the positions it has been taught. What would be said of a full grown man who should act so childish a part? He may learn to dance, but he must learn like a man, and not like a child; under restraints and difficulties from which a child would be free. And after all, will such education be complete or perfect? Will it, like that received at the proper season, be wrought into the system, so as to become a part of it, or will it be in a manner awkwardly set on, defective, not thoroughly incorporated, and betraying that it is the forced product of culture unseasonably late? Let it be remembered, that we are not now speaking of those rare men, in whom an all conquering natural vigor overcomes every difficulty, and carrying them to a lofty elevation, sustains them there in defiance of ordinary calculation. Still less, would we speak of such as having, from any cause whatever, been destitute of the means of early education, seize upon the first occasion that presents itself to supply the defect. They act wisely and well. They deserve to be cheered and encouraged and aided, and as they have nothing to reproach themselves with, (though, it must never be forgotten, they have much to regret,) they begin, with a clear and approving conscience, a work good in itself, and which the very effort proves they would have undertaken sooner if they could have done so. No: we speak not of such; we speak of the average class of mind, and of those who have the opportunity of being educated, but cast it away upon the miserable speculation that they will make up for lost time hereafter. To far the greater part—they may be assured of it—that hereafter will never come. Indolence and sensuality will grow with their growth. They will every day become more and more disqualified for the task, while the task itself will become heavier as their strength decreases. To those (if any) to whom that hereafter may come, how will it come? Their companions, furnished and provided by the diligent prosecution of their studies, are already on their journey, and *they* must go back to try to pick up what they have left along the road behind them. What reasonable hope can they have of overtaking those who are already so far in advance? If more were necessary, upon a subject which seems itself to be so very plain as not to require either discussion or argument, there still remains a motive to be urged in addition, of sufficient power to determine the conduct of any one, who has a heart to feel, or an understanding to perceive the obligations of a duty as clear in its commands, as it ought to be delightful in its performance. Why attempt to explain or to enforce it? We have just witnessed a

scene that will tell us what it is, with a vividness and force which no description can approach. In the midst of the assembled multitude brought together to witness the exercises of this day, your eye may perhaps have alighted upon one absorbed by deep and agitated feeling, and in spite of every exertion to assume composure, betraying the influence of uncontrollable emotion. *That* was a parent, come to enjoy the highest gratification a parent's heart can experience—to be repaid for years of anxious care, and for sacrifices which none but a parent could make, by seeing a beloved child come forth with honor and applause from his final trial here. Shall we reverse the picture? Shall we endeavor to describe the pang that would follow the announcement that he was unworthy to participate in the exercises of the day, or to receive the public seal of approbation of his conduct? that he had yielded to the seductions of vice or idleness, and satisfied himself with the miserable hope, that at some future time he would bind up the wounds his folly was inflicting upon the hearts of his parents and friends? No. Happily such extravagant perverseness is of very rare occurrence. We need not therefore dwell upon it. One single word more upon this part of the subject, and we must dismiss it with the brief and imperfect notice it has received, in order to proceed to other considerations which seem to deserve attention. In the distribution of the honors of the College, there are, as there ought to be, distinctions of degree, founded upon the aggregate result of attainment and conduct. How very nice they are, and upon what slight circumstances they must sometimes rest, is apparent from the fact that an absolute equality is often declared between two or three. Admitting, as we freely do, that such distinctions are proper in themselves, and the adjudication of them in general is correct and just; and admitting too, that very frequently they are found to be confirmed through life; yet neither in College nor in life are they to be considered as the conclusive evidence of comparative merit. If, for example, in a class to be graduated, there should be ten, who have been alike distinguished throughout their whole career, for exemplary deportment, for a faithful observance of the laws of the Institution, for a diligent prosecution of their studies, for all in short that it was in their power to do, shall we not say that they are entitled to equal praise? Assuredly, for all have done their duty to the whole measure of their abilities. Yet, it must be confessed, that there may be a difference among them in intellectual capacity, which though it cannot have the slightest weight in a moral judgment of their respective claims, is nevertheless a proper ground of distinction in arranging the order in which they stand, estimated by what they have actually accomplished. Every student should aim at the highest distinction—every parent may be indulged in the hope that his child will gain it, and may be allowed to rejoice if he should be marked as the first in his class. But, if disappointed in this his highest hope, he can be truly assured of all the rest, great reason has he still to rejoice, and be thankful for such a child—strong ground for confidence in his future character. The root is there—the soil is proved to be good—and, with the blessing of God, he may count upon the increase, a steady and upright walk through life, with corresponding respectability and usefulness. If at such a moment, an undue pride should be suffered in the least to check the flow of devout gratitude, it must be because for that moment he forgets what a multitude of blessings have been granted. The last drop he would have desired may have been withheld; but his cup is full, and all that is in it is pure and sweet.

Upon this subject of the higher education, or what, at the expense of a frequent repetition of the same words, may be called a collegiate education, there are at all times erroneous notions afloat, to a greater or less extent, which undoubtedly have the effect of limiting and lessening its influence. So far as they prevail, they

do great mischief. Sometimes, they prevent parents from giving this advantage to their children. There is no use, they will say, in sending youth to a College.—Often, yielding to what they consider as a custom, to which they must conform, that they may not be entirely out of the fashion, they send their children—but send them with doubts and indifference, as to the value of what they are to do, too plainly manifested to be misunderstood, and with the sanction of parental authority, sure to be imbibed and cherished by the youthful mind. Thus, at the least, enfeebles their efforts, and is very apt, besides, to bring them into conflict with the discipline and authorities of the College. How can they have any respect for either, if they are taught to believe that they are useless, or worse? It is not unlikely that these erroneous notions have still a further influence, not so distinctly marked, nor so easily detected, but of far more extensive operation, than either of those that have been mentioned. They teach the student who is going out of College, to undervalue what he has there acquired, and to suffer it to perish from neglect. That he thus entirely loses the benefit of education, is what no one will contend. On the contrary, an effort will be presently made to show that he does not. But that he fails to derive from it all the advantage that he might, is thought to be so clear, that no one can deny it.—This, however, is his own proper, personal loss, and nothing more. Great as it is, it is for his own consideration merely. But he has much more to answer for. He hurts the cause of education, by not holding up to view the whole advantages it is capable of conferring. He lowers the class of educated men to which he belongs, by failing to contribute what he can to raise it in the public estimation. He injures the character of his country, by suffering this class, which ought to be its pride and ornament, to sink below the level it is capable with adequate exertion of maintaining. Surely this is responsibility enough. Selflove, benevolence, patriotism—the duty he owes to himself to others, to his country—all call upon him with a loud voice to preserve and increase what he has acquired.

Leaving this topic, for the present, let us devote a few minutes to the examination of one of the errors alluded to. Nothing that is very new or very striking can probably be said upon it to such an audience as is here assembled. But truth must be often repeated, however trite it may become by repetition. It seems to be a condition of our nature that what is good and valuable is to be maintained and preserved by incessant vigilance, while mischief is self-acting, and works by its own vigor. It is indeed a law of wholesome moral discipline, to bring into exercise our better faculties, by requiring their continual exertion to assert and vindicate what is right and good. In such a work there is little room for the employment of ingenuity—less for the indulgence of fancy. Paradox may glitter in the ornaments of human contrivance. Error may be infinitely diversified, so as to have the charm of perpetual novelty. But truth is one. The road to it is one. It allows of no deviation, but must be approached straight forward, by sober investigation, and patient inquiry.—One recommendation it has, beyond all doubt. In this straight road, no one who fairly followed it, was ever lost.

The error chiefly in view, is that which supposes the higher education, or collegiate education, to be useful and even necessary for those who are intended for what are denominated the learned professions, but not for those who expect to dedicate their lives to other occupations. If a parent mean that his son shall be a divine, or a lawyer, or a physician, he does right, according to this theory, in sending him to College; but if he mean that he shall follow any other way of life, a College is not a suitable place for him. Thus stating the matter, it will be at once perceived where the danger lies, and what is the extent and magnitude of that danger, if such a notion as this could become generally

prevalent. Of all the youth of a country, by far the greater part are debarred by uncontrollable circumstances from the privilege of extended moral and intellectual culture. The residue, consisting of the few who might enjoy this advantage, is to be again divided, and a portion of that few to be excluded—strange to say—by deliberate choice. It cannot be requisite, in exposing the fallacy of an opinion like this, to insist upon the obvious objection, that it assumes a basis which cannot be admitted, namely, that the occupation for life is to be determined before the time arrives for entering College. It would be unwise if it were practicable. But it is plainly impracticable.—Who can tell what changes may happen before the period arrives for carrying such a decision into execution? Why then make it? Why adopt unchangeably a system for the future, when the future may not admit of its application? Surely no discreet parent—whatever his fond anticipations might suggest—would do any thing so absurd. He will postpone his decision, till the fit time for it shall arrive, and that fit time is not the period for entering College, but the period of leaving it. The faculties and dispositions are then more fully developed, the character better understood, the means of forming a judgment more distinct and ample. One consideration, indeed, ought upon this point be entirely conclusive. The trials of the College, and their results, are themselves the very best guides to a sound and wise decision. They test by actual experiment the qualities which are the proper elements of judgment in this delicate and important question. Sometimes it may happen that they disappoint expectation. Much oftener they disclose a power which was before unknown, and but for their searching efficacy, might have remained unknown, even to the possessor of it himself. If they had no other use than this; the process to collegiate education had no other virtue, than to detect and bring out the latent fire which lies slumbering and unnoticed for want of excitement and collision, what parent who can duly estimate the value of such a hidden treasure, would hesitate to have it sought for, if there were but a chance that it might be found by searching. Nor is it necessary to urge another obvious consideration, namely, that the choice of a pursuit or occupation, made at the proper time, and actually carried into execution, is still not final. How many accidents, over which he has no control, may compel a man to change his pursuit in life? How many powerful motives may induce him to do so, when he is under no such compulsion. Instances of both are every day occurring, numerous enough to falsify a calculation founded upon the indissoluble union of a man with the occupation he enters upon in the beginning of life.

Waving these considerations, however, weighty as they are, enough will still remain to show satisfactorily, nay, to show demonstratively, that this notion has no foundation whatever, and thence to lead us to the plain conclusion, that every parent who has it in his power, is bound in duty to give his child a collegiate education, unless he can give him a better. It is not intended to discuss at all the question between public and private instruction. All that is to be insisted upon is, the advantage of as full a measure of thorough decision, as can be given, without encroaching upon that portion of life, which in the order of nature ought to be applied to the performance of duty, rather than to preparation for it.

It may be, that in the distribution of the occupations of this world, with reference to their nature, some are regarded as intellectual, and others as not so; and it may be that it is thence concluded, that the culture of the intellect is necessary for the former, but not for the latter. Such a distribution cannot be admitted to be correct. But if it were, would the inference be a just one? Upon a fair estimate of the matter, it ought to be the very reverse. If the way of life to be followed, is

such as to afford neither nourishment nor discipline to the intellect, then ought the provision of both to be the greater before it is entered upon, unless we mean to admit the extravagant suggestion, that the capacity which our Maker has in his wisdom given us, may, with impunity, be suffered to perish. A divine, or a lawyer, or a physician, is all his life long in a state of intellectual exercise;—his faculties are continually kept alive, and in healthy action, and his learning continually increasing;—this is what is said,—therefore it is proper that he should receive a full preparatory training—that he should be fully educated. One devoted to some other calling—we dare not be more specific—it would be deemed derogatory and disrespectful—such an one will never be invited or required by his occupation to make an effort of mind, nor furnished with it with the slightest particle of intellectual wealth. The stock that he begins with, is all that he can ever expect to have. Therefore, it is better that he should begin with none at all. Absolute destitution is thus deliberately chosen. Such a conclusion is not warranted by sound logic, nor by sound wisdom. It is worse than this—it is immoral and sinful. It is no better than a voluntary sacrifice of the gifts of God, to some mean idol, whose ministers are the meanest appetites of man. That any parent should ever consent thus to devote a child, with a sense of what he is doing, it is impossible to believe. If he err, it must be simple error, the offspring of sheer ignorance.

But is there any reason in such a distribution, or, to speak with more exactness, is there any sense in the inference made from it? Is it true that education can or ought to be thus adapted to the occupation or profession intended to be pursued? There is no difficulty in understanding why a very large portion of mankind are excluded from the benefits of liberal education. It is from various causes placed beyond their reach. Of such we do not speak. We speak only of those who have it in their power; and as to them we would inquire whether there is any rational ground for asserting, that some ought to have more, and others less of the advantages of early discipline and culture. Whether, in other words, to the inevitable privation caused by uncontrollable circumstances, we are to add a conventional privation, arising out of the arrangements of society;—whether, to state it plainly and at once, in the shape of example, one who is to be a merchant, ought to be less educated, than one who is to be a lawyer;—whether the one ought to be sent to College, and continue to receive instruction 'till the age of eighteen or nineteen, and the other be taken from school, and put to work, at thirteen or fourteen, simply because they are respectively designed for different pursuits?

The first mistake committed by those who would adopt this arbitrary and injurious distinction, is in supposing that a man's occupation or profession, being merely of a worldly nature, is the whole concern of his life; that it occupies all his time, and includes all his duties, and all his pleasures. Miserable would his condition be, if this were true. Miserably would he fulfil the purposes of his existence if it were even to approach the truth. But it is not true. For, whether he be a lawyer or a merchant, or a planter or a farmer, or a manufacturer, he is, notwithstanding, a *man*, with the high privileges and duties belonging to that character, which he ought to be able to enjoy and to fulfil. He is a social being, connected with those around him, by a thousand ties from which he cannot disengage himself, without doing violence to the better part of his nature. He cannot shut his eyes to distress, nor close his ear to its cry, nor withhold his hand from its relief. He cannot refuse to aid the ignorant, or to help the friendless. He is a son, a brother, a husband, a father, relations which employ and reward his affections, but call for the exercise of his virtues and talents. He is a citizen of a free political community, and there too,

finds occasion to reflect, that there are other claims upon him, besides the claims that are made by his peculiar business. Nor must we forget that he is subject to infirmities; that calamity may overtake him; that death will come to him;—that he is exposed to temptation;—that he has an evil heart to be purified, and that he stands in need continually of the aid of an enlightened conscience. Surely it must be conceded by every one who has bestowed a single thought upon our nature, that these points of identity are far more numerous, and far more important, than the accidental difference, occasioned by profession or occupation. They entirely outweigh it. Duly estimated, they render it absolutely insignificant. Nay, there is scarcely one of them, that singly taken, is not of greater moment. Collectively, they make up the character, not of a lawyer, a physician, a merchant, a manufacturer, but of that which is common to them all, the character of a man—a social man, in a civilized and christian community. It is upon these points peculiarly, that education operates, where it produces its proper effect. It forms the man—its impress is upon the general character—its discipline for general usefulness and worth. To admit that any calling in life is of such a nature that it cannot be successfully followed by one who is wise and good, or that it will be more successfully followed by one who is weak and wicked, would be to sink it below the level of honest and worthy occupations. Such an admission supposes that it requires the individual who enters upon it to be in a degraded state as to morals and intellect. Who would be willing that such an opprobrium should be fastened upon the occupation he follows, and, as an unavoidable consequence, attach to himself, and to go with his gains to his children? No one, assuredly. But some who would indignantly reject such an imputation, will hint, nevertheless, that a certain natural shrewdness and dexterity, unrestrained by too nice an observance of the dictates of a becoming pride, or the admonitions of a vigilant moral sense, are in some pursuits the best instruments of success. Be it so. For the sake of exposing a miserable fallacy, let it be conceded that this is the shortest and surest way to succeed. What then? Is the nature of the thing altered—by the mode of stating it, or even by the assurance that the end is likely to be attained? What is thus described, is but the definition of knavery, however it may be disguised or softened in terms. Brought into plain English, it is neither more nor less than this, that a knave will do better than an honest man. What kind of work must it be, that requires such a workman? Will any one with the slightest sense of accountability, contend that it is lawful or honorable, or becoming? Will any one be hardy enough to assert, that an intelligent and accountable creature, ought to be counselled, or even permitted, to degrade and dishonor the faculties his Maker has given him, by such a prostitution of them, for any earthly purpose whatever? If education will preserve him from such debasement, it performs a noble office.

It will appear the more extraordinary that such a notion as we are now considering, should be entertained for a single moment, when we reflect, that it is now an universally established law of society, that men are not to be marked or known by their occupation or profession. According to a common but somewhat coarse adage, they must not smell of the shop. In their general intercourse with their fellow men, they must be able to present a character and qualifications so entirely independent of their peculiar pursuits in life, that what these are, shall not be known by any thing in their conduct, or conversation. Such a requirement may possibly be sometimes carried too far. But in the main, it is right, and founded in good sense and good breeding, which both demand that when we go out into society, we shall leave our working dress and our private affairs at home, and carry with us what will be agreeable and profitable to others, as well as to our-

selves. How shall we be able to comply with this law, if we have nothing to carry out with us? Shall we sit in a corner, stupid and vacant, contributing nothing to the innocent gratification or to the instruction or assistance of others, and receiving nothing from them in return? This is what no man could endure. Will he then retreat from the world entirely, shut himself up in his own shell, and devote himself exclusively to his own concerns? They will not occupy him. They are not sufficient for him. No young man can live safely in retired leisure, unless he has the capacity to read, to reflect, to study, to enjoy the exercises of his intellectual and moral faculties. How shall we have this, if it has never been cultivated, if he has been left unconscious of its very existence? But man is not born to be idle, nor to be alone. He must have exercise, and he will seek association. If he cannot enjoy what is good, he will betake himself to what is bad. He will connect himself with his fellow creatures, not by his strength, but by his weakness. They will be bound together, not by the exercise of their rational powers, but by the indulgence of their sensual and vicious propensities, corrupting and destroying, instead of enlightening and invigorating each other. These indulgences create and increase wants, whose importunate craving, unchecked by moral restraint, leads in so many instances to frightful crime. This is a catastrophe too hideous to be regarded with indifference or unconcern.

In the adoption of such a notion, there seems, besides, to be a striking contradiction and inconsistency. There is scarcely a man engaged with any activity in business, of whatever kind, who does not promise himself a period to his labors, when he shall be able to retire from business, and enjoy repose and reflection.—This is a natural feeling, and, if not absolutely universal, a very extensive one. A hasty view might incline us to believe that it is nothing but the desire of rest.—One would fain hope, however, that it is something more—that there is a stirring in it of our better faculties—a prompting of the sense we have, that these faculties are capable of other and higher and more expanded exercise, and a sort of promise that their neglect and abuse shall be atoned for at some future time—a scheme, in short, for *living*; which, whether well or ill conceived, does certainly admit that a man is not living when he is entirely engrossed by his business. And this is undoubtedly the truth. The future, thus contemplated, if the matter be rightly considered, is present every day of our life. It is especially present in the earlier part of it. There are portions of every day which may be given to reflection, to reading, to preparation for the performance of our duties, and to the performance itself. No rational man need postpone to the end of his life, that calm which all promise themselves; he may have it each day if he will; he may have it, if he choose to understand aright the gracious appointment of the Author of our being, in a still higher degree, at the end of each week, when he is not only permitted, but enjoined to withdraw one-seventh of his time from the cares and occupations of life, and to dedicate it to meditations which refresh his weary nature, which purify and refine it from earthly corruptions, and while they exalt, invigorate it for whatever tasks it has to perform. There are those who persuade themselves, that their business demands of them all their time, and that even the Sabbath cannot be spared for its appropriate employment. Let such an one deal fairly with himself. Let him take as strict an account of his time as he does of his money, for a week or a month, allowing six days to the week, summing up at the end all the fragments that have been wasted in listless idleness,—that have been worse than wasted in hurtful indulgence, or have been involuntarily sacrificed to some of the thousand contrivances, invented for killing time,—and then say whether he had not a moment to spare for moral and intellectual improvement, for cultivating relations of good will and kindness, and for fulfilling the

duties of a social man, in all their various forms. The best excuse he can offer, if he should find a large balance against him, will be, that he has not been educated—that his taste has not been cultivated—that his capacity has not been developed, and disciplined; in a word, that he is unable,—that while yet a child, he was plunged unformed and unstructured, or imperfectly instructed, into the turbulent current of business, and he is fit for no other element. Why was he not educated, is the natural inquiry? If he be less than he might have been, as the confession seems to imply, there is a grave responsibility somewhere. Let all who have the care of the conduct of youth, look to it.—But for encroaching upon the appointed day of rest—putting aside all serious considerations—there is no excuse at all. It is not an evidence of industry in one's avocations, but the contrary. It is not profitable, even upon a mere worldly estimate, but injurious. It is commonly the refuge of laziness and disorderly habits, which, neglecting things when they ought to be done, suffer them to accumulate, with the expectation that the arrears will be cleared off on Sunday. A man who yields to this temptation, does not labour seven days—he allows himself seven days to do the work of six, and after all, the work is not done. The thief procrastination will be sure to steal more than one day out of the six, and leave to the seventh an undue proportion of work, even though its own proper duty be at the same time left entirely unperformed. What was said by Sir Matthew Hale in 1662, doubtless he would have been able to repeat in 1833. "I have found by a strict and diligent observation, that a due observance of the duty of this day hath ever had joined to it, a blessing upon the rest of my time; and the week that hath been so begun, hath been blessed and prosperous to me." But apart from the considerations which governed that pious man, and deserve the deep attention of every one; no one who seriously reflects, will fail to be convinced, however paradoxical it may appear, that more work can be done in six days, than in seven. The fact is believed to support the argument. Speaking as a witness, after some experience, and careful observation, I can say, that many of the most industrious, and in their respective walks, the most eminent men I have known, have been those who refrained from worldly employment on the Sabbath. But to return to the point under discussion—how do those who promise themselves a period of rest and of rational enjoyment, after the fatigues of a long day of uninterrupted labor, propose to spend it, if in the course of Providence it should be mercifully granted to them? I will not attempt to answer the question, but leave it for those to reflect upon, whose experience and studies have enabled them to decide, what the chances are, that the buds, and the blossoms, and fruit, which in the order of nature are the ornament and delight of the season of genial warmth, will come forth in the frosts of winter.

An opinion has already been intimated that the benefits of early education, continued through the period which nature indicates as the time for training and discipline, are not entirely lost, even though the acquirements in College should afterwards be neglected. Wholesome nourishment and exercise for the mind, are like wholesome nourishment and exercise for the body. They enter into the constitution, and impart to it general health and strength, and capacity for the exertions it may be called upon to make, and the trials it may be doomed to suffer. This is especially true of childhood and youth, and as to all that concerns our physical condition, is universally admitted, in practice, as well as in theory. The tender infant is not suffered to lie in torpid inaction. Its little frame is put in motion in its mother's arms. As soon as it can bear exposure, it is sent forth to larger exercise in the open air. The boy is permitted and encouraged to rejoice in active and invigorating sports; and the youth, quite up to the season of manhood, is taught to blend the healthful

exertion of his sinews and muscles, with the cultivation of his intellectual and moral powers. Why is this indication of nature, thus carefully observed and obeyed? Why do parents watch with so much anxious care over the forming constitution of the body, and seek to train it to grace and vigor? It is because it is *forming*, and the fashion it then receives may more or less abide by it ever after. Their anxious care is well bestowed. Much of the happiness of life depends upon it, and every one is aware that such is the case. Hence it is that gymnastics have been introduced into places of instruction, where feats are performed which no man of full age expects ever to repeat, unless it should be his lot to be a tumbler or a rope dancer. Is there not a precise analogy, in this respect, between the two parts of our nature? Have not the moral and intellectual faculties a growth, a period of expansion, a season for nourishment and direction, when the constitution of the mind and heart is taking a form like that of the body, and when the intellectual and moral capacities are to be assisted and trained into a healthy condition? Are there no gymnastics of the mind? It would be deemed a palpable absurdity if any one were to argue, that a child was likely to be employed in sedentary occupations, and therefore it was not material that he should have the use of his limbs. Is it not still more absurd to use such an argument in relation to his higher and better faculties? It is a great calamity to be deprived of sight—to be unable to behold the glories of the visible creation, and enjoy the beauties of art. Is it a less one, to be destitute of intellectual vision, by which we are enabled to “look through nature up to nature’s God,” and to discern glories greater far than those, great as we must confess them to be, which are manifested to the eye of the body? By which, too, we are enabled to look into ourselves, and there to see the fearful and wonderful thing we are, and how it is that from the source of infinite wisdom and goodness, there is an emanation of light imparted to us, which we are commanded not to allow “to be darkened.” Surely, surely, these are reflections which ought for ever to silence the sordid calculation that would bend man’s whole powers down to the earth, instead of helping him to grow up towards the heavens. The superincumbent weight of the world’s business will press heavily enough upon him. With all the preparation he can have, and all the improvement he can make of it, there is danger that he will but seldom be able to raise himself above the thick fog, that creeps along the ground, and limits his view to the objects immediately around him, into the clear region where higher duties and higher enjoyments offer themselves to his attention—where the spirit may breathe, the mind hold communion with intelligence, the affections kindle, the charities be nursed, and his whole nature exalted, under the quickening influence of the consciousness that he is a man. It is in this consciousness, properly enlightened, that dwells his real dignity, and in it, too, the sense of all his duties. What parent, then, who has the ability, will withhold from his child, the means of such instruction and discipline, in their fullest measure, as may promise to give him a moral and intellectual constitution fitted to seize upon, and improve the occasions that may arise for purifying and exalting his nature, and fulfilling all his obligations? In this consists his highest happiness. It will not control the course of events. It will not make adverse fortune prosperous, nor the contrary. But, like a wall in the sea, well planted and well supported, broad in its foundation, and carried to its proper height, it will establish a secure and quiet retreat from the shocks, both of prosperity and adversity, to which he may betake himself in the hour of dangerous trial, and escape the imminent hazard of being overwhelmed by either.

But in thus earnestly contending that every parent is bound to give to his child the fullest measure of education in his power, and that what is wrought into the

constitution in youth may, and probably will, have a good effect in after life, let no one suppose that we would countenance for a moment the belief, that there is nothing more to be done. The responsibility is shifted—it does not cease. When parents and guardians and teachers have done all that they can do, the rest remains for him who has had the benefit of their watchful care. It is for him to preserve, and to improve what he has been enabled to acquire. And, let it be added, every one has it in his power to do so. But he must lose no time about beginning. A portion of every day should be thus applied, and the first portion, if possible, be taken from the day that follows his leaving College. If that be not practicable to the very letter, at least, no time should be unnecessarily lost. The accumulation from the savings of money, is a thing very well understood. Every one knows, that a small sum steadily set apart from day to day, or from year to year, through a long life, will, with its regular increase, make up in the end, a very large aggregate. This sort of economy is sufficiently inculcated, and to encourage it, we are told, that there is scarcely an income so small as not to allow of its observance. In the management of our faculties, for preserving and enlarging our stock of good knowledge, there is at least an equal certainty that method and industry, with perseverance, will be attended with success. Each day’s work in itself, is small; but if every day’s work be done, it is astonishing how much may be gathered together, by the application only of the time that is commonly wasted in absolute listlessness. None know it better than those who have been careless spendthrifts, squandering the moments that might have been profitably employed, until at last they find themselves ignorant and destitute, with the cutting self-reproach of having a less stock of useful acquirements than they carried with them from College.

Too much of your time has been already occupied to permit a discussion of this important topic, at the length it deserves. It is not practicable, without most unreasonably taxing your patience, to dwell upon the arguments which naturally suggest themselves. One view there is, that cannot be wholly omitted, and in its behalf, however feebly, imperfectly, and hastily, it may at this late hour be stated. One moment more is asked.

The body of educated men in a country, besides their other distinctions (all attended with corresponding duties) are the natural guardians of the cause of education. They are expected to be able to perform the office of guardians. To them, chiefly, this great cause must look for support, in all its extent and variety, from the highest to the lowest. Professors and teachers, learned and able as they may be, are still regarded as interested persons, and listened to with doubt and distrust. They must be upheld by testimony, entitled to respect as disinterested and competent—the testimony of men known to be able to appreciate their labours and their services, and to judge of their fitness and their qualifications. Hence it is, that every considerable institution is finally under the control of a board of trustees, in some way selected from the mass of the community, to superintend its interests, to watch over its conduct, and by actual inspection to observe the working of the system as well as the capacity and fidelity of all who are intrusted with its details. Who will be able to perform this duty but such as having had the advantage of early education have improved it by continual culture? Who else can be competent to judge of the examination of classes, of the merits of professors and teachers? In whom else can there be confidence that the great interests of education, are safe under their charge? And then, too, are to be judged; they are amenable to public opinion, which is at last to decide upon them, who decide upon every thing else. But how shall the tribunal be constituted which is to pass upon their doings? How shall public opinion be

enlightened, so that from their judges they may look for justice, unless there be a body of educated men, who feel a lively sympathy in their labors because they know their value, and who are able by their influence to inform and direct the public mind?

To this same body of educated men it belongs to judge of proposed improvements, to weigh them carefully, to examine them thoroughly, and to sanction and adopt them only when after a rigorous investigation they appear so be clearly good. New schemes are constantly offering themselves, claiming to be superior to the ancient methods. Sometimes, they profess to make the way of learning easy and quite an amusement; forgetting that one great point in education is to prepare us by discipline for a life of exertion and toil. At others, they would exclude the ancient languages, and instead of the fine models they exhibit in the productions of the masters who used them, satisfy us with translations, when every one who can study them in the original is aware, that even if the substance can be retained, (which is more than doubtful) the graces and beauties which constitute their main charm, are unavoidably lost in the transfer. Then there are those who, under the plea of utility, would crowd into the work of education many things which may be admitted to be well in their place, and fit enough to be learned at the proper time, but have nothing to do with our general nature, nor with the cultivation of our general powers. And so of a thousand other plans, to which there is not time even to make an allusion. But of all the blows that can be levelled at this good cause, there is none so deadly and destructive, as that which aims to sever or to weaken the union of learning and religion. Our fathers thought them inseparable. When they were to build up an edifice for instruction, they laid its foundation in piety, and they humbly invoked the Divine aid, to fill the whole structure with the light of truth. Nor did they neglect the appointed means. Within its walls they fixed an altar, not like that in Athens, inscribed to "the Unknown God," but to Him, who having always manifested Himself in the works of creation and Providence, has also made Himself known by the revelation of His attributes, and of His holy will. Around this altar they thought it right to assemble daily the youth committed to their care, and to endeavor to provide that its fire should be fed, and its services be performed, by pious and learned men:—that so the perfume of its offerings might fill the atmosphere of the nursery of youth—all human learning be accomplished with the spirit of devotion, and the recollection of our dependence, and our duties be continually present with the effort to improve the faculties of the mind. Such an institution was to be an Alma Mater. It was to fulfil a mother's duty, not only with a mother's affection, but with the deep religious sense that is seated in a pious mother's heart, to guide and govern that affection, so beautifully exhibited, in the first lessons of childhood, when the little hands are upraised towards heaven, by the mother's side, before the tongue has power to give utterance to praise or thanksgiving. But now, there are those who would separate religion from learning, who would exclude the altar from the nursery of youth, and leave the place of instruction without any visible manifestation or acknowledgement of our duty to our Maker. If such a proposal were limited to scoffers at religion, to such as indulge in sneers and sarcasms at all that is serious, to men who vainly imagine they make themselves giants, by raising their puny hand against heaven—it would not be surprising, and, comparatively, it would be harmless. They are few in number, and of little weight. The real matter of astonishment, not unmingled with deep concern, is, that it should find favor with any one else. That it can be entertained for a moment must be owing to ignorance or thoughtlessness. Here, then, the body of educated men must take their stand. By all the means in their power they must endeavor to avert the pestilent mischief of desec-

rating the places of instruction, of separating the culture of the heart from that of the mind; and, under the pretence of a liberal morality, of rejecting the only morality that is clear in its source, pure in its precepts, and efficacious in its influences—the morality of the Gospel. All else, at last, is but idolatry—the worship of something of man's own creation, and that thing imperfect and feeble like himself, and wholly insufficient to give him support and strength.

Brethren of the Alumni Association—these are but hints upon some of the important topics which an occasion like the present suggests. To you, who have the advantages of a liberal education, it belongs to take care that as far as depends upon man's ability, these advantages shall continue to be held in esteem, and be preserved unimpaired. We come to revisit our Alma Mater, not to take shelter again under wings, where we were once protected and nourished, but with filial duty, and what strength we have, to endeavor to uphold and extend her beneficent efforts in the cause of religion and learning. To her sons she looks to be her witnesses, and her champions—by their lives to show forth the fruits of her nurture, and with their manly powers, here trained into vigor, to maintain and defend that good cause at every point where it may seem to be in danger.

## LAND TITLES.

(Continued from page 105.)

In the lessee of William Clemmins vs. Philip Gottshall, and Robert Johnson, at Venango, October, 1806, in the circuit court, before Yeates, J. The case was this:

Ejectment for 400 acres and 131 perches of land in Sugar Creek township. It appeared in evidence, that David Meade, William Johnson, the plaintiff, William Clemmins and Robert Johnson, entered into a written agreement at Cussewago, on the 26th of December, 1794, whereby it was stipulated, that Meade should discover unappropriated lands, and make surveys thereon; the other parties were to find all the lands, and provisions for the chain carriers, and blazers, and to build good cabins at least 12 feet square, on each tract; and Meade was to have one third of the tracts, and the other parties the remainder, to be ascertained by ballot, or lottery; Meade to receive twenty shillings for surveying two-thirds of the land, for each tract.

In pursuance thereof, in January, 1795, 13 tracts of land were discovered and surveyed, and a cabin was built on the lands in dispute, which served as a place of rendezvous. The allotment of the different tracts was made by mutual consent before the several improvements were completed; and the premises in question with two adjoining tracts, were assigned to Clemmins, by the particular desire of the two Johnsons.—They proceeded to erect their cabins in the spring following, but they deserted their lands and separated, on hearing of the murder of two of the inhabitants by the Indians in June, 1795, at the mouth of Little Coneaut creek. In the close of the same summer, Clemmins came out with another person, and did some work on the two adjoining tracts, but none on that in controversy, and returned in the fall to Westmoreland county. In 1795, he sold his interest in the three tracts to one Patterson for 300 dollars. Some of the witnesses testified, that he acknowledged to them to have received part of the purchase money, and obligations for the remainder. Clemmins married in April, 1796, and during that spring, came out with Patterson, and gave him possession. The latter resided and worked on the tracts about three months, when he left it much embarrassed, and never returned, the land lying vacant.—During this spring, Clemmins improperly obtained the possession of a tract of land above Meadville, claimed by one Magollin; but an ejectment having been com-

menced against him, he quitted the same, and sold to John Davis. He afterwards stopped at the improvement of Richard Vansickle, known by the name of Wentworth's tract, and seized on the possession of it, as vacant; but his goods were thrown out of the cabin. In August, or September, 1796, he passed through Meadville with his wife, and two loaded horses, and took possession of the lands in dispute. They again went back to Meadville with their horses, and returned to the cabin with other loads. They had their provisions, blankets, and household articles about them, and continued in the cabin a few days, and then returned to Westmoreland county, being in want of fodder for their cattle. The wife also was pregnant, and alleged she could not obtain the necessary assistance in the unsettled state of the country; but he declared his determination to return to the lands. He put a lock on the door of his cabin, and left a number of his household articles therein. In March, or April, 1797, the cabin was consumed by fire, either by accident, or design, and Johnston, one of the defendant's, was then seen employed in cutting house logs near thereto. In June following, Clemmins being under an engagement to reap grain seven miles from Greensburg, sent out his wife, and infant child with her father, to take possession of the lands in question. She carried with her a horse loaded with provisions, and bed clothes, and family necessities, with money to purchase more. She came to the land, and required the possession thereof, but the same was refused to her by Robert Johnston, who alleged, she had no house there. She then went with her father to Meadville, where she was afterwards joined by her husband. He likewise demanded possession of the premises from Robert Johnston, but was denied the same by him. The latter continued in possession for some years, until he sold to Thomas Russel, with a covenant to make him a good title. Russel afterwards sold to Gottshall. Clemmins became greatly indebted, and was obliged to leave the country for some time. The present ejectment was brought to June term, 1806, at which time, a house, one end of a barn and spring house were built, and 13 acres of land cleared.

In the course of the trial, a survey was offered in evidence on the part of the plaintiff, made for him on the 11th of February, 1806, by Samuel Dale, the deputy surveyor of the district, under his actual settlement. This was objected to, as the 8th section of the act of 3d of April, 1792, authorizes surveys, in the case of settlers actually in possession of the lands at the time of application to the deputy surveyor. The plaintiff should have applied for an order of the Board of Property, whereon to found his survey.

To this it was answered, that if this construction of the law was correct, no person defrauded of his possession as an actual settler, before he had obtained a survey, could ever receive redress. It is well known, that unless a *c. vent* be filed, the Board of property will not grant an order of survey, in the case of settlements. But the language of the act is in the *past* tense. "The deputy surveyor of the proper district, shall, upon the application of any person who has made an actual settlement and improvement, &c. survey and mark out the lines of the tract, &c." Ejectment is a possessory action, and this court has determined, that an official survey must precede the recovery by an actual settler.

By the Court. The survey must be read in evidence. Whether there was such an actual settlement by the lessor of the plaintiff as would authorize the survey, under all the circumstances of the case, must, in the sequel of the cause come before the court and jury for decision.

After argument by the counsel on both sides, Yeates, J. observed, that the case presented three several questions for decision: 1st. Whether the lessor of the plaintiff could be considered at any time, as an actual settler? 2dly. Whether he had forfeited such claim?—

3dly. Had he been guilty of *laches* in not bringing this suit earlier?

The opinions entertained in the country after the passing of the act of the 3d of April, 1792, as to improvement cabins, were highly erroneous. The great object of the law was to encourage the settlement of the country, and the cultivation of the soil by the hardy sturdy yeomanry. Preference was given to persons who were willing and desirous to settle and improve the lands, north and west of the Ohio and Allegheny; but it was indispensably necessary, that that they should unite both characters. Hence it results, that the cabins built on the thirteen tracts gave no efficient pre-emption right to the lands thereby intended to be secured, but operated as scare-crows to keep off others, who entertained the delusive popular ideas of fancied improvements. A settlement, in its nature, possesses characteristic features of improvement; but the converse of the proposition is not true.

The 9th section of the act of 3d of April, 1792, prescribes the duration of the settlement, the extent of the improvement, and the period within which it shall be made; but it does not define what a settlement is. For this definition, we must recur to the act of December 30th, 1786, which declares, "that by a settlement shall be understood, an actual, personal, resident settlement, with a manifest intention of making it a place of abode, and the means of supporting a family, and continued from time to time, unless interrupted by the enemy, or by going into the military service of this country during the war." It corresponds with the correct idea of what was called an improvement before the American Revolution. The *animus residendi* in the first instance, and the *animus revertendi* in the case of evacuating the possession for a temporary purpose, were deemed the essence of a *bona fide* improvement. The girdling of a few trees, or mauling of rails, without unequivocal intentions of residence, and return to the premises, to make it a place of permanent abode, were not dignified with that character. But a man who had erected his cabin, sowed the land, inclosed a field, or made any other preparations, which clearly evinced a full determination to make the place his home, and immediate settlement, might with safety leave the land in order to bring out his family, or to perform other acts of duty or charity; and provided he returned within a reasonable time, his possession was secured to him. If he stayed away an unreasonable time, he would be presumed to have abandoned his original intention of settlement; but this, like other presumptions, might be repelled by proof. It would be incumbent on him to account for his long absence in a satisfactory manner. Sickness, or other inevitable accident, on such occasions, have always been considered as sufficient excuses for such delay in returning.

Patterson appears to have been the first actual settler on the lands in question, he resided and worked on the land near three months: but he abandoned the tract and never returned. In the language of the act of December, 1786, his settlement was not continued from time to time.

Clemmins, the lessor of the plaintiff, succeeded to the vacant possession. But to him it has been objected, that he had sold the tract, and received, at least a part of the consideration: and further, that he was pursuing other objects of speculation, in possessing himself of Magoffin's and Wentworth's tracts, above and below Meadville. To this, it is fairly answered, that the claim of Patterson was wholly forfeited by his abandonment, and that he, nor any other on his behalf, never returned to the land. In consequence thereof, any person desirous of settling and improving, might lawfully enter on the possession; and the former possessor being indebted to him for the premises, was a strong equitable circumstance in his favour. No impropriety of conduct as to the two tracts of land about Meadville, can invalidate his pretensions to the lands in

question. Subsequent to these transactions, he resumed the possession of this tract, with his wife, and had no other home. Every thing he possessed in the world was contained within the logs of his cabin. I abominate the practice which has prevailed in this new country, of slipping into the possession of others, who in many instances, have been necessitated to quit their settlements for temporary purposes; and have frequently, during the present circuit, expressed my decided sentiments on that subject. It is absurd in the extreme, to suppose that the legislature, who enacted the law of 3d of April, 1792, ever intended to confine actual settlers within the lines of their 400 acres, as if they were inclosed by the four walls of a prison!

To the jury it belongs to decide, whether, when Clemmins took possession of this tract in August or September, 1796, he did not shew "a manifest intention of making it a place of abode, and the means of supporting a family." If they shall be of opinion, from a careful review of all the circumstances, that such was the bent, or settled purpose of his mind at the time, then he must be considered as possessing the incipient right of an actual settler. It is the intention unequivocally shown, not the extent of the improvement, which stamps the reality of an actual settlement, in the first instance.

If the jury shall determine in favour of the plaintiff upon the first point, they must then decide, whether the claim has been forfeited. They will judge of the ground of his discontinuing the possession in the fall; the want of fodder for his cattle, and the fears of his wife in her pregnancy, on account of the thinness of the settlement; they will also determine whether he absented himself an unreasonable time. Clemmins expressed his intentions of returning to different persons, at various times. He left most of his property in the cabin; and he placed a lock on the door. His cabin was burnt early in the spring of 1797, which might have come to his knowledge: when his wife, with her father, demanded possession in June following, her child was but two months old; and he frequently afterwards repeated his demand on Robert Johnston before he instituted his ejectment. The presumed abandonment is negatived by all his acts; but the period of his absence for nine months constitutes the chief objection against him. The case seems contradistinguished as between the present parties from common instances of dereliction. Is it consistent with justice, after the agreement of December, 1794, under which the premises were assigned to Clemmins, at the instance of Robert Johnston and his brother, that the said Robert should infer an abandonment of the land without the most cogent proof? This agreement forms a strong part of the plaintiff's case.

Yet if the plaintiff has been guilty of *laches*, whereby innocent persons have been injured, he ought to be postponed. If valuable improvements have been made upon the land through ignorance of his claim, and monies paid by purchasers for which they have no redress, the poverty of Clemmins will not avail him, for not having brought this suit for ten years. But here the claim was fully known to Robert Johnston, one of the original parties, to the agreement: he made the chief improvements on the land, and is responsible for the goodness of the title. Nor has it appeared in evidence, that either Russell, or Gottshall, have paid any part of the consideration money. The objection on the ground of *laches* does not seem to hold in the present instance against the plaintiff's recovery.

The jury found a verdict for the plaintiff. (MSS. Reports.)

It was held in the lessee of M'Glaughlin vs. Mabury, in the supreme court, September term, 1808. That one cannot be an actual settler on two tracts of land; but that his children, if of sufficient age to reside on and cultivate the land, may be actual settlers. It was also held in that case, that indulgence will be given to a set-

tler, who quits his residence for a temporary purpose, with intention of returning to it; and that the title of a settler does not depend on the extent of his improvement, but on the *animus residendi*, and the possession continued. (MSS. Reports.)

So, in the case of Wright vs. Small, in error, supreme court, September, 1809, (MSS. Reports.) It was held, that warrants under the act of 3d of April, 1792, should contain a special description of the lands; a special entry in the books of the deputy surveyor, cannot supply the defect thereof; nor is any one bound to take notice of such entry. And, if an improvement is begun with an intent to make an immediate settlement, and prosecuted with due diligence till a settlement is completed, the title will relate, to the first improvement. If delay takes place in the settlement, it lies on the improver to account for it in a reasonable manner.

And, in Cosby vs. Brown, (in error,) it was held, that when an actual settler, who has made some improvements has been deterred by the violence of a younger settler from completing his settlement, and has for several years neglected to take steps for the recovery of his possession, it is a fact for the jury to decide, whether he has not relinquished his settlement. He does not stand in the situation of a person having a legal title, who may bring an ejectment at any time within twenty one years.

The case was this. The plaintiff claimed the land as an actual settler. He commenced his settlement in the year 1797, erected a small house, cleared a piece of land, sowed an acre and an half of rye, fenced the ground, and went away in the autumn, with an intention to return in the spring and complete his settlement. In the spring of 1798, he did return; but one James Cosby, under whom the defendant entered, had in the mean time taken possession of the cabin, and by the menace of violence, prevented Brown from continuing his improvement. Brown left the lands, saying that he would not contend with force, but would resort to the law. He returned to Mifflin county, his former place of residence, and until the 15th of March, 1805, when the present action was commenced, he took no measures to recover his possession. The Cosbys remained constantly on the land from 1793, and made several improvements.

Tilghman, C. J. delivered the opinion of the court. There is no doubt but that the plaintiff commenced a settlement in 1797, and returned in the spring of 1798, with a view of completing it. His right was prior to the defendant's; and if he had commenced an action sooner after being prevented by the defendant, he must have recovered against him. But, although he might have recovered if he had brought suit in a reasonable time, it does not follow that he may recover after a lapse of seven years. The law with respect to actual settlers was laid down by this court, explicitly in the case of Porter and Wright, plaintiff's in error, vs. The lessee of Small, defendant in error. If the settlement once commenced, is not continued without interruption, it lies upon the settler to account for it by some reasonable cause. A liberal allowance is made for a man who has evinced a *bona fide* intention to settle. Danger from an enemy, the death or sickness of the party or his family, the difficulty of procuring provisions, and a variety of other circumstances, are to be taken into consideration. But it must always be remembered, that the title is imperfect, till completed by the improvement and residence of five years, and that though fairly and legally begun, it may at any time be relinquished. It is no uncommon thing for differences, and even force to take place between settlers on the same tract; but although the prior settler may be in the first instance ill used, and driven off by force, he may not always choose to pursue his settlement. As long as he is prevented by the apprehension of violence, he stands excused from prosecuting his improvement. And even if he brings no suit, it is possible he may fairly account for it. But I cannot assent to the broad proposition

contended for, that a man who is once prevented by violence may retire from the land, and recover an ejectment at any time within twenty-one years. Such unreasonable delay may take place, as would justify the younger settler, who had made use of force, in thinking that his adversary had relinquished all idea of settlement; and in that case the law will not suffer the labour and expenses of years to be swept away. This title of a settler under our act of assembly, is of a special nature. Until completed by improvement and residence, it is not to be compared to the case of a person possessed of a perfect legal estate, whose right of entry is not barred by less than twenty-one years of adverse possession. We have been accustomed to leave it to the jury to decide, under the circumstances of each particular case, whether the settler has followed up the commencement of his settlement with reasonable diligence. In the case before us, the court below took it for granted, that the plaintiff was at all events entitled to recover, if he was hindered by the defendant from prosecuting his settlement in the year 1798. In this I think they erred; for it should have been left to the jury to decide, whether under the facts given in evidence, the plaintiff might not fairly be presumed to have relinquished his settlement.

It has been determined in the circuit court, that a settler cannot support an ejectment without a survey.—Judgment reversed, and *venire de novo* awarded. 2 Binney, 124.

During the progress of this note, two very important acts have passed relative to the lands north and west of the rivers Ohio and Allegheny and Conewango creek, with which the view of this great controversy will be closed.

The first is entitled “An act to encourage the warranting and patenting of lands north and west of the rivers Ohio and Allegheny and Conewango creek,” passed the 1st of March, 1811.

By this act, the secretary of the Land Office is authorized to issue warrants and patents to all actual settlers, residing north and west of the rivers Ohio and Allegheny and Conewango creek, who have complied with the acts of 1792 and 1794, who may apply within two years after the passing of this act, with such documents as are now required by law to obtain warrants and patents in that part of the state, also a certificate of the deputy surveyor of the proper district, certifying that to the best of his knowledge and belief the lands contained in said survey have not been claimed by any other person, by warrant, or otherwise, and on payment of the usual fees of office, such persons shall receive their warrants and patents, upon executing a mortgage to the governor, for the use of the commonwealth, to secure the payment of the purchase money and interest due, in ten equal annual instalments, and all mortgages executed, in pursuance of this act, shall be for the purchase money and interest only, and shall be filed in the office of the Secretary of the Land Office, and shall be available in law without the recording thereof. And it shall be the duty of the Secretary of the Land Office, before he shall deliver any such patent to be enrolled, to endorse thereon that a mortgage is executed to secure the said payments, specifying the amount thereof. Provided, that any person who has, or hereafter may, execute a mortgage to secure the payment of the purchase money on lands for the use of the commonwealth, shall not thereby be deprived of the privilege of a freeholder; and such person may pay the whole amount due at any time within the ten years, and the land may be mortgaged by agent or attorney, duly constituted. But no warrant or patent so issued, to any actual settler, shall prejudice, or in any wise affect, or impair the right, interest, or claim, of any person or persons, whomsoever in any of the said lands.

§ 2. All surveys made, or hereafter to be made, agreeably to the 8th section of the act of the 3d of April, 1792, and entered in the survey book of the proper

deputy surveyor, shall be returned into the Surveyor General's office, by the deputy, at any time after passing this act, on applications made to him; and the Surveyor General shall file the same in his office, after which the lands so surveyed and returned, need not be again surveyed, but the secretary of the Land Office shall issue warrants of acceptance for the same to the person applying to take his title, agreeably to the provisions of the first section of this act.

§ 3. At any time after passing this act, on the application of any of the settlers who may have filed their applications in the Land Office, the Secretary shall issue a certificate to the state treasurer, authorizing him to receive any sum or sums of money, not less than ten dollars, and upon the receipt being returned to the Land Office, it shall be entered to the credit of the applicant, although he may not have executed a mortgage so as to entitle him to a warrant or patent.

The second is entitled “An act providing for the settlement of certain disputed titles to lands north and west of the rivers Ohio and Allegheny, and Conewango creek,” passed 20th of March, 1811.

§ 1. Agreements entered into between warrant holders and actual settlers, previously to the settler taking possession, though after the time required by the act of 3d of April, 1792, in such cases, where such settler has made an actual settlement, continued residence and improvement thereon, as described in the 9th section of said act, are ratified and confirmed; but not to affect adverse claimants.

§ 2. Compromises between adverse actual settlers and warrantees prior to the 1st of June, 1813, by which the warrantee releases to the settler his claim to 150 acres of the tract, including the settler's improvements, or where either party shall purchase the claim of the other to such tract, in such case the title of the commonwealth shall cease, and the title be confirmed to the warrantee and settler accordingly.

§ 3. Where any adverse actual settler has made an improvement and residence agreeable to the act of 3d of April, 1792, and has purchased of the warrantee any part of the tract to secure his improvement, in such case, where the warrantee, on or before the 1st of June, 1813, shall release to such settler, his claim to 150 acres, in such case the commonwealth shall cease to have any further claim to such tract.

§ 4. Any actual settler, who, adverse to the warrantee, had commenced an actual settlement, and residence on any tract surveyed on warrant, and resided thereon two years, and in that time cleared, fenced, and cultivated three acres on such tract, and had abandoned his settlement on such tract, at any time before the settlement, residence and improvements required by the 9th section of the act of 3d of April, 1792, were fully and completely made and ended, and who, by himself, or his legal representative, shall return to such tract before the 1st of June, 1813, and settle and reside on the same so long, as with the residence and improvements aforesaid made thereon, shall amount to what is required by said 9th section, such settler, or his representative, so returning and residing as aforesaid, shall be entitled to all the benefits of an actual settler, under this act, and the act of 3d of April, 1792; but should he neglect to return, or fail to recommence said settlement within said time, and perform the conditions herein required, his previous settlement shall be considered abandoned after said 1st of June 1813; and after said day, the warrantee, or his legal representative, may dispose of the same, in the same manner, and under the same conditions, as lands where no actual settlement was commenced, and on the same conditions, and under the same exceptions as in other cases, will the commonwealth cease to have any further claim to such tract of land.

§ 5. Every actual adverse settler, who has been evicted by the warrantee, by process of law, shall be entitled to all the benefits of an actual settler under this

act, and the act of 3d of April, 1792. And upon the warrantee releasing to such settler, or his legal representative, 150 acres of said tract, including his improvements, clear of expense, or, in cases where either party shall purchase the right or claim of the other to such tract, in such case the commonwealth shall cease to have any further claim to said tract, but the title shall be ratified and confirmed to the said settler and warrantee accordingly.

§ 6. Where no actual settlement and residence now exist, on any tract of land surveyed on warrant; and the warrantee or, his legal representative, shall before the 1st of June, 1814, agree with any person to commence a settlement on such tract before said day, and release to such settler his claim to 150 acres of such tract, clear of expense, and such person, or his legal representative, shall commence an actual settlement on the same before said time, and continue a residence thereon for five years next following the first commencement, and, within that time, clear, fence and cultivate at least two acres for every hundred acres in said survey, and erect a house thereon, fit for the habitation of man, in such cases the commonwealth shall cease to have any further claim to said tract, and will confirm and ratify the title to the same.

§ 7. Where patents, commonly called prevention patents have issued, to said party, or parties, for said land, and he, she, or they, shall request a new patent, for the same land, it shall be granted on payment of the usual fees of office, and on delivering up the old patent to the secretary of the Land Office, that it may be cancelled.

§ 8. In any case of compromise with an actual settler, and where a new warrant of default shall have been issued for the same tract, the purchase money and office fees for the same, shall be repaid by the state treasurer.

§ 9. The provisions of this act shall not be construed to affect any agreement heretofore made between an actual settler who has made the settlement, residence and improvement on a tract of land, and any person who was to procure the title for said settler, and on which tract of land the original warrantee had failed to fulfil the conditions of the 9th section of the act of 3d of April, 1792, but all such contracts shall remain as heretofore, unless an agreement shall take place between all parties concerned before the 1st of June, 1813, or the original grantee, or his legal representative, shall release his claim to the contracting parties; on which release taking place, the state in all such cases will cease to have any further claim to such land, and the titles shall be ratified and confirmed accordingly.

§ 10. The parties to any compromise, shall cause the evidence thereof to be recorded in the proper county, and a certified copy thereof transmitted to the secretary of the Land office shall be evidence of such agreement, and the usual proof of settlement and residence being filed in said Land Office, patents shall thereupon issue agreeable to the provisions in the foregoing sections.

§ 11. Any civil process issued out of any court, or from any alderman or justice, against the Holland land company, Pennsylvania population company, or the North American land Company, or other warrant holders, by the name of the respective companies or warrant holders, as the case may require, shall be served on the agent, or attorney in fact of such company, &c, in case where attorneys or agents are or may be appointed; and on due proof of such service, the same proceedings shall be had, as against other defendants, in like cases.

§ 12. Where an actual settler may heretofore have purchased the right of a warrantee to a tract of land north and west, &c- whereon he may have made an actual settlement agreeably to the act of 3d of April, 1792, and shall apply to patent the same, the secretary of the Land Office shall grant such patent on the usual

proof of settlement being made, and a regular chain of title produced from the warrantee, on payment of arrears and office fees. But nothing contained in the foregoing shall be construed to prevent the commonwealth, at any time hereafter from asserting her right in cases of forfeiture under the act of 3d of April, 1792, when the warrant holders and actual settlers shall fail to embrace the provisions of this act.

(To be continued.)

For the Register.

#### AMERICAN MOLE LOCUST.

No. 11.

On the ninth and tenth of August, numbers of the young insects made their appearance. Some idea may be formed of the prolific nature of the Locust, by calculating the number of eggs in a branch of an Apple tree. A Locust usually injects twelve eggs into twelve to fifteen perforations, and on examination, a small branch of the Apple tree contained seventy incisions made by the injectors of the Locusts—As each branch appeared to contain an equal number of incisions the whole number of eggs injected in this Apple tree which is of usual size must have been to a vast amount.

After the rain on Sunday last, thousands of pupæ were seen in the puddles of rain water under the tree, from which they had probably been washed by the rain.

The pupæ are indebted to rain for softening the earth, to enable them to emerge, and again to assist in making their descent into the earth. It is not improbable that the Locusts in May 1851, will greatly exceed in number those of the present year.

I am informed by the owner of the lot that in digging under the roots of the Apple tree three years since, pupæ were seen in numbers from four to five feet below the surface, and that their holes crossed each other in every direction. Below five feet they cannot penetrate, being prevented by a solid limestone rock. He also informed me that from the appearance of the holes he is inclined to the opinion that they ascend within two feet of the surface and descend again at their pleasure to the rock.

To the Naturalist this information may be desirable, coming from a respectable source.

R. C.

LANCASTER, August 14, 1834.

From the Beaver Republican, August 13, 1834.

#### CHOLERA.

We hope that dreadful disease is subsiding, no new cases have occurred in Fallston or vicinity since last week. Brighton has continued healthy as usual, no case of cholera has been there, and from the situation of that village, we trust that the inhabitants as well as those of East Brighton will escape the scourge.

All those having business in Brighton may therefore visit that place with perfect safety.

The Pittsburgh Mercury of Friday last, says—"A number of cases of Cholera have appeared in this city this season, but they have, so far, we believe, been confined to persons who were predisposed to take the disease or who have been imprudent. It by no means prevails here as an epidemic. We have heard of no cases for the last two days.

For some weeks past the weather has been uncommonly warm—last week the mercury ranged from ninety to one hundred and three degrees in the shade; we are informed that in Fallston one day last week, it stood at 110, whilst at the same time it was at 93, at the Seminary of Mr. Gould on the opposite side of Big Beaver river. It is probable that the extreme heat combined with other causes has produced the sickness in Fallston as well as in the country. South of the Ohio river the dysentery has been very mortal; a great number of children and some grown persons have fallen victims to that disease. Some cases of cholera morbus or billious cholica have occurred in Bridgewater and in this neighborhood. We have every reason to be thankful that our town continues remarkably healthy for the season; no case of Cholera has yet occurred, nor even a case of common cholera morbus that we have heard of, nor a very serious case of dysentery.

FALLSTON, Aug. 8, 1834.

Mr. Logan:—

Sir—Yours requesting information respecting the epidemic now prevailing among us is received: below, I hand a table of cases of *Cholera Asphyxia* that have occurred under my particular observation:

The first case occurred July 27, James M'Iroy, dead.

July, 28, Mary Smith, dead.

29, D. Worcester, convalescent.

30, Mary Worcester, dead.

do. Robert M'Creery, do.

31, Douglas M'Iroy, do.

do. William Reed, convalescent.

August 1, James Kelly, do.

4, Mrs. Baxter, dead.

do. Mrs. M'Iroy, convalescent.

7, Thomas Sloan, dead.

do. Richard Baxter, do.

8, John Collier, do.

Two other citizens of Fallston have died of Cholera while absent from home, viz: Wm. Fowler died at New Castle, and James Alexander, at Henry Small's—we have had from 15 to 20 cases of incipient Cholera among our citizens, and hardly an individual has escaped the premonitory symptoms. Some of the above fatal cases received no medical treatment until in a state of collapse.

In haste,

Yours respectively,

E. K. CHAMBERLIN.

FALLSTON, Aug. 8, 1834.

Mr. Logan:—

Dear Sir—Since the 8th inst. no new cases of Cholera has occurred in this Borough; we hope the disease has entirely left us; there is not to my knowledge a single case of sickness in town.\*

Yours respectfully,

E. K. CHAMBERLIN.

BEAVER, PA.—We regret to learn from the Beaver Argus of Friday last, that several cases of Cholera have occurred in that county, most of which have proved fatal. On Thursday night of last week, Richard Baxter, a young man residing at Fallston, was attacked, and died the next morning. On Friday, John Collier, a young man of the same place, fell a victim to the destructive disease, after a few hours illness. On Wednesday, a man named James Courtright, residing a mile north of the borough, was attacked and died the evening following.

The Argus furnishes the following list as comprising all the cases that have occurred in that county.—Samuel Hooper, steamboat Byron, dead; Ephraim Knowles, s. b. Eclipse, do.; Mrs. Venatta, do.; Mrs. Bracy, convalescent; Mr. Strawhecker, do.; Mrs. Dean,

\* There are only 10 families now living in the Borough, the rest having left the place since the appearance of the Cholera.

dead; James M'Iroy, do; Child of do. do., Mrs. M'Iroy, convalescent; James Alexander, dead; Robert M'Creery, do.; Mrs. Gormly, do.; Mr. Worcester, convalescent; Miss Worcester, dead; William Reed, convalescent, James Kelley, do.; Mrs. Pugh, do.; Mary Smith, dead, Mrs. Baxter, do.; Thomas Sloan, do.; Richard Baxter, do.; John Collier, do.; John Murphy, do.; Alexander Murphy, do.; James Fowler, do.; James Courtright, do.

On the nights of Tuesday, Wednesday and Thursday, the 12th, 13th, and 14th instant, the southern districts of our city were the scene of disgraceful riots. As much excitement existed, the real cause of them, as well as perhaps the facts, are but partially and imperfectly known. But as many of the rioters have been made prisoners and will be tried, the truth will more fully appear hereafter. At present we record the following statements from the daily papers, which contain perhaps as correct an account as can at present be given.

From the Philadelphia Gazette.

#### DISGRACEFUL RIOTS.

We alluded yesterday to a disgraceful riot that took place in South street, on Tuesday evening, between a party of half grown boys and a number of blacks, and we find on inquiry that the disturbance was much more extensive than we anticipated. The true provocation it appears impossible to ascertain, but the leading particulars are detailed by a morning journal as follows:—“Early in the evening, a detachment of boys and very young men, amounting perhaps to several hundred, armed with clubs, marched down Seventh street, to the open lot, adjoining the Hospital, where they were joined by others. After remaining on the lot a short time, as if to concert their plan of operations, they proceeded to a notorious spot in South street, near Eighth, where the illegal amusement of flying horses is carried on. The building was attacked and speedily demolished; and from the statement of our informant, it seems that a battle immediately took place between the rioters and the blacks who live in the vicinity. At one time it is supposed that four or five hundred persons were engaged in the conflict, with clubs, brickbats, paving stones, and the materials of the shed in which the flying horses were kept. The mob then marched down South street, tore down the paling of a house occupied by a black family, burst open the doors and obliged the inmates to fly for their lives. In a similar style they paraded through the various streets, Bedford, Mary and others, in which the blacks are chiefly congregated, committing violence of every kind.

The police having, about 9 o'clock, become sufficiently strong for confidence, made an attempt to route the rioters and capture the ringleaders, and the tumult became still more appalling. “Down with the Police!” was the general cry, and many of the city and county officers were severely, some of them dangerously hurt. M'Lane, of the county, M'Lane, Manderfield, Danenhower, and others, received much injury. Herren, one of the city police, was so dangerously wounded, that on Tuesday night it was supposed he would not survive until morning. A number of special constables were sworn in by Squire Loughhead, who displayed great courage and activity, rushing into the centre of the rioters, and capturing about eighteen of the most conspicuous. They suffered however, severely, being obliged to fight their way through the mob to and from the office. Mr. Loughhead was enabled alone to detain the captives by a judicious hint of means more effectual than clubs or maces. The sight of the weapons was sufficiently alarming to keep eighteen men quiet before him. They were committed, being unable to procure the bail, a thousand dollars each, which was required. It was ascertained, that with one or two exceptions,

the prisoners were from a distant part of the town.—Several negroes were taken on the city side, and committed next morning by the Mayor. At about 11 o'clock quietness was restored."

The foregoing proceedings, as disgraceful as they unquestionably are, appear to have been but the commencement of the disturbance. Wednesday night another mob, comprising many boys, and a considerable number of adult persons, assembled about half past ten, in the vicinity of Seventh and Shippen street, and immediately made an attack upon the African Presbyterian Church. Stones, brickbats, and clubs were thrown in at the doors and windows, and in a short time the building was made a complete wreck. A frame house, near the Church, was attacked and utterly demolished, the inmates having barely time to escape with their lives. The mob then proceeded to the corner of Sixth and Small street, and attacked a house called the "Diving Bell," occupied by John Cox, a white man, and used as a grog shop and lodging place for all colors, at the rate of three cents a head. This they destroyed in a short time. Other houses in the immediate vicinity, to the number of not less than twenty, all occupied by colored people, were then attacked and stripped of their contents. Great excesses are represented as having been committed by the mob, and one or two scenes of a most revolting character, are said to have taken place. We forbear particularising in the hope that we have been incorrectly informed.

Some arrangement, it appears, existed between the mob and the white inhabitants, as the dwelling houses of the latter, contiguous to the residences of blacks, were illuminated, and left undisturbed, while the huts of the negroes were signaled out with unerring certainty. The furniture found in these houses was generally destroyed, beds ripped open and their contents scattered in the streets. Stones and brickbats flew in all directions. Several blacks were seriously injured, and report states that one is now dead.

In the course of an hour from the commencement of the riot, the police of the city, headed by the Mayor, and the watchmen and constables of the districts of Moyamensing and Southwark, assembled near the spot and made arrangements for attacking the mob. They formed in two divisions, one led by the Mayor in person, and the Lieut. of the City Watch, and the other by High Constable Blaney and Captain Bell, and advanced from adverse points so as to surround the mob, which by this time numbered from one to two hundred persons. They made a vigorous attack upon the rioters, and at once put the whole body to flight. About twenty persons were captured, and conveyed to the police office.—Many of them, we learn, had about them articles of plunder. This morning after an examination before the Mayor, they were committed for further hearing.

The conduct of the Mayor and police was in the highest degree fearless and commendable. The undaunted firmness of Mr. Swift never appeared in a more conspicuous light, and to his energy and courage we are undoubtedly indebted for the suppression of a riot, which at one time threatened to lay waste a whole section of the city, if not the destruction of many lives. Philadelphia may well be proud of such an officer.

It is worthy of remark that all the disturbances here alluded to, took place without the bounds of the city proper. Not a blow was struck north of South street.

The foregoing are all the particulars we have been able to obtain during a brief conversation with one who was present. Our informant could give no clue to the origin of the affair, except a supposed jealousy against the blacks for some real or imaginary offence.

P. S. Since the foregoing was in type, a correspondent has sent us the following additional particulars. "Soon after the mob collected at the corner of South and Seventh street, word was given to march down Seventh street, the police of the city being too strong to permit any breaches of the peace within their bounda-

ries. On the way down several blacks were inhumanly beaten and dreadfully lacerated. The number of houses assailed in the vicinity of Seventh and Shippen, and Small and Bedford streets, was not less than twenty. The doors and windows were broken in, the furniture destroyed, and the inmates, in some cases, sent naked into the street. *In one house there was a corpse which was thrown out of the engine; and in another a dead infant was taken out of bed and cast on the floor, the mother being at the same time barbarously treated.* The signal words of the mob were 'Gunner,' 'Punch,' and 'Big Gun.' Robbers were busy, during the disturbance, in pillaging the houses that were attacked."

The statement in the foregoing, in relation to the treatment of two dead bodies, has reached us from other sources. Comment on such outrageous and inhuman proceedings is unnecessary.

This morning, soon after the rioters arrested last evening were committed to prison by the Mayor, a colored man named William Robinson, took it upon himself to harangue a mob in front of the State house, on last night's doings. He was repeatedly requested by the police to desist and go away, but pointedly refused and was at length taken prisoner. The Mayor declared that at this period of excitement he would suffer no mobs to collect, and any one detected in an attempt to collect a crowd, would be vigorously dealt with. Robinson was bound over, in the sum of \$300, to keep the peace, and to stand committed until the bail was procured.

#### RIOTS ON THURSDAY NIGHT.

Anticipating a recurrence of the disgraceful outrages of Wednesday night, the Sheriff of the county, with an alacrity and energy which do him honor, made extensive preparations to preserve the peace. Nearly three hundred special constables were appointed. The command of the whole was spiritedly assumed by Peter A. Brown, Esq. whose military skill and energy of character, peculiarly fitted him for the trust. The Mayor was also authorized, with his efficient police, to cross the line, and aid in suppressing disorder in any section of the county.

In addition to this force, the first city troop of horse, under Capt. Hart, paraded, mounted and fully equipped; and the company of Washington Greys, under Capt. Worrell, remained under arms, with cartridge and ball, the whole night at their rendezvous, in market street, prepared to march at a moment's warning.

With these arrangements, the posse committatus assembled at about 8 o'clock, in the Mayor's Court Room. From thence they proceeded to the hospital lot. A large portion of them remained at this place, and the remainder proceeded to different points of apprehended danger.

Intelligence having been brought, that a mob had gathered in the lower extreme of Southwark, a portion of the posse, under Col. Brown and Mr. Foster, hastened to the spot. They arrived at the Wharton Church, which had been the object of attack, about 10 o'clock. They however found the whole work of destruction completed, and the mob retired. Not one portion of the building remained upon another. The crowd, consisting principally of men, had gathered in the early part of the evening, with the deliberate intent of tearing down the building. The standing posts were partially cut through with axes; ropes were then fastened to the upper part of the building, and the united force of the mob, soon prostrated it to the ground. The mob satisfied with their success, retired from the Church to Vernon street, where they entered several houses, and destroyed the furniture. The posse followed them thither; and on their approach, the crowd dispersed.

Meanwhile a large portion of the posse, including the city police, under the direction of our intrepid Mayor, proceeded to the neighborhood of the excesses of the

preceding evening. Here they found nearly a hundred negroes assembled in a large brick house in Seventh, below Lombard street, and prepared to resist any attack. This show of resistance soon collected a large and angry mob. The whole square was one dense mass of human beings. The Mayor stationed his force around the house, and addressed both the citizens and the negroes. To the blacks who were in the house he said, that if they intended violence he would afford them no protection, and could not be accountable for the safety of their lives. To the citizens he depicted the dreadful consequences of these outrages: begged those who desired to maintain the peace, to retire to their homes; and assured those who felt inclined to riot, that the force of the police was amply sufficient, not only to prevent their success, but also to punish the attempt. The blacks very wisely left the house by the back door, under the protection of a number of policemen. They exhibited no disposition to resist; but were, on the contrary, excessively frightened, and anxious for protection.

The mob continued before the house for some hours, and was occasionally agitated with a momentary violence, but was kept in awe by the presence of the police, and the overpowering numbers of citizens determined to keep the peace. About half past twelve o'clock the mob had dispersed, and all was quiet.

About fifteen prisoners were made during the night. They are now in prison, and will be examined before the Mayor to-morrow. They will, no doubt, meet the most exemplary punishment.

The Mayor, the Sheriff's officers, and the police generally, deserve great credit for their courage and propriety on this occasion. The citizens are also greatly indebted to the First Troop, which did much by its rapid movements to repress disorder; and to the Washington Greys, who remained in readiness, to march at a moment's warning.—*Com. Intell.*

**THE RIOTERS.**—Yesterday morning a number of individuals arrested during the recent disgraceful riots in Moyamensing, underwent an examination before the Mayor. They were each bound over in the sum of \$1000, to appear at the next Court of Quarter Sessions, and answer a charge of being concerned in the riots. The following are their names.

L. Lockwood, South st. and Gillie's Alley.  
 Pat. M'Kearnan, Shippen, between 6th and 7th.  
 —Pearce, 5th, below Shippen.  
 John M'Laughlin, 11th and Christian.  
 Mich. Cavenah, Catharine between 6th and 7th.  
 Hugh M'Intyre, Fitzwater about 6th.  
 James Higgins, do. do.  
 Jno. Sherman, 218 South 7th st.  
 Robert Burns, Luncester, (no abode in the city.)  
 Leonard Foy, 101 North 7th street, between Arch and Race.  
 Orlanda Newton, Port Carbon.  
 John Cannon, Little Oak, between 5th and 6th, below South.  
 Wm. Sands, Plumb between 3d and 4th.  
 Elias Reed, Vine street above 2d.  
 Thos. Love, 11th and Christian streets.  
 Antony Magge, 302 South 3d, between Plumb and German.

Hugh McGlaughlin, Plumb between 4th and 5th.  
 John Boyce, South and Vernon street.—*Penn. Inq.*

**RECENT RIOTS—AMOUNT OF PROPERTY DESTROYED.**  
 The city continues quiet, and we trust that through the exertions of the Mayor and other authorities, the scenes by which our city was disgraced last week, will not recur again. We invite public attention to the condition of the unoffending victims who have been driven from their homes with the loss of all their little property. A public meeting should immediately be called, and a committee appointed to seek out the sufferers, ascertain their losses, and another to seek contributions from the citizens. Cases of the most distressing char-

acter have been mentioned to us, and it has so happened that those who suffered most severely are the least culpable. For the character of our city, for the sake of humanity, something should immediately be done by way of relief. A friend has furnished us with the following, which is believed to be a correct list of the houses injured, and the amount of property destroyed:—*Penn. Inq.*

*Small Street, by Fifth.*

No. 3. A yellow frame; windows all destroyed; doors torn off their hinges, and the furniture all destroyed, even to the breaking in two of the bed screws. Mr. Fitzgerald, the resident, estimates his damages at about \$100. They left him but one chair and a stove.

No. 5. The house adjoining. The window destroyed; furniture partly broken up, and the house externally slightly damaged. This was occupied by a Mrs. Moore. Her damage about \$50.

*Shippen Street.*

No. 209. A two story frame house; window destroyed, and part of the furniture. This was occupied by Levin Drake as a shoemaker's shop. Loss \$60.

A three story brick house owned by N. Butler, (a coloured man of Westchester, Pa.) occupied by — Green and two other families. The damage of property and furniture here was very great; loss about \$350. The windows were completely demolished.

No. 215. A brick house, of three stories, windows and furniture all destroyed.

No. 217. A large white frame, occupied by John Nicholson, master chimney sweeper. The damage here is very great, and the house was treated with uncommon severity. The windows were completely demolished, even to the window casings, which were torn out.

*Warner's Court, running from Shippen Street by 7th.*

Three story houses, brick; the windows of Nos. 1, 2, 3, 4, 5, 8, and 9, completely demolished.

*Seventh Street.*

Presbyterian church, (for blacks,) 5 large windows completely destroyed, and the remaining ones seriously damaged.

No. 292. Brick house, 3 story, occupied by Charles Akers, 3 children and 2 adopted ones. The windows and furniture all destroyed, and the house otherwise injured.

No. 290, and 291, slightly damaged.

*Baker's Court*, running from Seventh street, below Shippen—2 story frame dwelling, occupied by Daniel Willamson, an aged man, about 95 years old. He was at one time a servant of General Washington. Damage estimated at about \$35. The windows all destroyed, also the furniture—not even a chair or glass left.

No. 297. Windows all broken, and sash destroyed. Corner of Baker's court and Seventh street, a 2 story frame, occupied by — Steel; house slightly damaged.

No. 303. White frame, 2 story, occupied by Samuel Cambigbee, wife, and 2 children. Loss upwards of \$80. The furniture lays scattered about the street near this house.

No. 305. Two story frame, occupied by Miles White; the windows demolished, and the furniture greatly injured. He also lost a sum of money which he has been laying by for his old age. He says that the mob stole more than they broke or carried away.

*Franklin Street.*

Running from Second street to Moyamensing road, below the Navy Yard—a Methodist church, owned and used by the blacks, was completely prostrated to the ground.

One house in the neighborhood was attacked; the damage was very slight.

*Vernon Street.*

McGenn's court, 9 houses, windows demolished, &c.; 2 story frames.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

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From the American Sentinel.

## INTERESTING LAW CASE.

Alexander Baring and Ann Baring, in right of the said Ann, and Henry Baring and Maria Baring, in right of the said Maria, all aliens and subjects of the King of the United Kingdom of Great Britain and Ireland.

vs.

Frederick Erdman and William Williams, both citizens of the State of Pennsylvania.

In the Circuit Court of the United States, for the Eastern District of Pennsylvania, October, Session 1834.

This was a bill of Equity, praying for an injunction to restrain the respondents from proceeding in the erection of a dam, digging a trench, and diverting and using the water of a stream, on the estate of the complainants, called "LANDSHOWNE," in the immediate neighborhood of Philadelphia.—It appeared that the respondents were superintendents and agents under the Board of Canal Commissioners, by whom they were directed to execute the works complained of, in order to supply the locomotive and stationary engines on the inclined plane with the necessary quantity of water. The motion for an injunction was resisted: affidavits on both were taken, and the case fully argued before Judges BALDWIN and HOPKINSON, by *Jos. R. Ingersoll* and *Charles Ingersoll*, Esqs. for the complainants, and *G. M. Dallas*, Esq. for the respondents. On Monday, the 4th August, 1834, the opinion of the Court was delivered, as follows, by Judge Baldwin.

The Complainants, who are the subjects of the King of Great Britain, have filed their bill on the Equity side of this Court, setting forth that they are owners of a tract of land, on the western bank of the Schuylkill, of which they have long been in the quiet and peaceable possession, through which a stream of water has run from time immemorial until its diversion by the respondents, by means of a dam, erected across it, on the land of the complainants, and a trunk made to conduct it to the Pennsylvania rail road, for the supply of the engines thereon; that the injury thereby caused is permanent and irreparable, and committed under color of, but without any authority conferred by law on the Canal Commissioners or any agent or officer appointed by them; they therefore pray for an injunction to restrain the respondents from the commission of any further trespass on the premises, from the further use and diversion of the water of said stream, and the further prosecution of any works, which may in any manner interfere with the full and quiet possession of said land and the water flowing through in its accustomed bed, and general relief.

That the title and possession of the premises is and has been for many years in the complainants is admitted; it is also admitted, that the respondents, under the authority and by the direction of the Canal Commissioners and their engineers, have erected the dam, dug the trench, and conducted the water from and across the premises to the rail road, for the use of the engines employed thereon, for the transportation of passengers and merchandise, up the inclined plane on the western bank of the Schuylkill. From the affidavits on both

sides it appears that the work was commenced without notice to the agent or tenant of the complainants, but that as soon as the agent received information, he notified the defendants, not to proceed any further; they, however, persisted, notwithstanding all remonstrances and open opposition, and availing themselves of superior numbers, kept possession of the premises, till they had finished the dam and trench, so as to divert the water to its destination. On these admitted or uncontested facts, various interesting questions have arisen, which have been very fully and ably argued, and deserve our most serious consideration.

If the respondents had invaded the peaceable possession of the complainants, under any pretension of an adversary right, or had diverted the water course for their own individual benefit, by a sheer act of trespass, the nature of the injury would be a proper subject for an injunction. The owner of an estate has a right to use it without any control or inference by another.—Whether he makes it the source of profit, pleasure or amusement, his right of property are equally protected. No man has a right to judge of the purposes to which a proprietor devotes his time, his capital or his estate, or the relative value and importance of its varied uses.—The parks, the pleasure grounds, the shade, ornamental or forest trees, the springs, the water courses or fish ponds, are as much in his full dominion as his mansion house, his grain fields, his meadows or orchards.—An immediate injury done to either will be redressed at Law or in Equity, on the same principles; in a court of law, the remedy depends upon the right of the complainants, and can be afforded only after the injury is committed, but a Court of Equity interferes to protect a possession held under a claim and color of right, and will prevent an impending or threatened injury, until the party out of possession shall establish his right at law, or otherwise be put into possession by some process which the law recognizes.

So far then as the case depends upon the nature of the injury, we should feel it our duty to grant the injunction, if the respondents could be considered as mere trespassers on the possession of the complainants, by any assumed right in themselves, nor would the case be changed if the acts done by them or threatened to be done by them, under the authority of the Board of Canal Commissioners, should appear to be clearly unwarranted by any act of Assembly. Though they act as the mere agents of the board or the state, we should be bound to view them as mere trespassers, whom we should enjoin from any future acts, however deeply it might affect the interests of the state. The acts of its agents or officers cannot be permitted to transcend the authority conferred on them by law. They must be clothed with jurisdiction over the subject matter, and with power to do the act complained of, or their proceedings will be controlled by the same rules which restrain private persons from committing irreparable injury to the property of others.

By the principles of the Common Law, confirmed by Magna Charta, and numerous statutes in England, no freemen could be deprived of his freehold but by the judgment of his peers on the law of the land, [1. Bl. Comm. 138,] or as it is expressed by Lord Coke, verdict of his equals, or legal process, or due process of Law,

[2d Co. Inst. 45 6] due process of the common law, [ib. 50.] or the law of the land. The statutes provide that no man's land shall be seized into the King's hands, against the form of the great charter and the law of the land, and if any thing be done against the same, it shall be holden for none. [1 Ruff. 209, 263.]

All the writers on national law lay down the position that private property may be taken for public use, but that this right is subject to the concomitant obligation on the government, to make compensation to the owner. [Vattel. 112, Ruth. 43, Burlamaqui 150, Puff. 829—30, Gro. 333—4.]

The 9th section of the 9th article of the Constitution of Pennsylvania adopts the provision and language of Magna Charta. The 5th amendment to the Constitution of the United States, adopts the expression "due process of law;" it also declares that private property shall not be taken for public use without just compensation. The Constitution of Pennsylvania is still more explicit; "nor shall any man's property be taken or applied to public use without the consent of his representatives, and without just compensation being made."

It is therefore clear that according to all the fundamental laws of Society, the appropriation of private property for public use must be authorized by the law of the land, the judgment of peers, or due process of law, and by compensation to the owner. When such an appropriation is deemed necessary for the general benefit, the public is considered as an individual treating with another for exchange: and the Legislature may compel the owner to part with his property for a fair price.—1 Blk. 139, 40. This is ascertained either by the verdict of a jury on a writ of *ad quod damnum*, or by some other process prescribed by the law, making or authorizing the appropriation. Our inquiry must therefore be directed to the question, whether the state has by law authorized the disseisin of the complainants of any part of their freehold, or the taking or application of their property for public use. It would be a waste of time to examine whether the officers of the state can do it without law or legal process, in direct violation of the Constitution and every principle of the common and public law held sacred in all governments, and which cannot be impaired in this without its destruction.

It is a matter of no little surprise to find that none of the acts of Assembly of Pennsylvania in relation to the great system of national improvement by roads and canals at the expense of the state, contains any express provisions authorizing the appropriation of the property of the individuals on their sites, or the taking of materials for their construction. This omission is the more singular when we find this authority in all cases explicitly conferred on all corporations created for the construction of bridges, canals, turnpikes, or rail roads, and a mode prescribed by which compensation is made to the owners. It cannot be owing to any opinion of the Legislature that the Constitutional rights of proprietors are less sacred when the state requires their property for the construction of public improvements at its own expense and for its general benefit, than when they are constructed by a company incorporated for that purpose; the whole course of legislation on the subjects of the canals and rail roads which are the property of the state, repels an imputation so unworthy of its wisdom and justice.

After the Canal Commissioners had executed the duties enjoined on them by the act of 1825, the Legislature by the act of 1826, (*Pamphlet Laws* 53) authorized and directed them to commence the construction of the canal: the 8th section directed them to make agreements with the owners of the land through which it should pass, or, if unable to do so, provision was made to summon a jury to ascertain the damages, to value the quantity and duration of the interest and estate which would be taken or injured thereby, also to ascertain the value of materials required for the Canal

or the works thereof, the dams, locks, feeders or any works appurtenant.

By the second section of an act passed at the same session, p. 302, the Commissioners were authorized and directed to take and pay for materials for reparation of the works in the same manner as for materials for constructing such works which may be removed or taken away.

The eight section of the act of 1827, page 196, made provision for compensation to any person who might be aggrieved by the canal passing through his land or in anywise interfering with his rights of property; the tenth section authorizes the Commissioners to receive releases of damages to land or by the taking of materials.

The eighth section of the act of 1828 providing for the commencement of a rail road, directed the Commissioners, previous to its final location and putting under contract, to receive releases for the damages to the owners of land by its passing through it or the taking materials to construct the same. *Pamphlet, p. 224.*

The fifth section of the act of 1830, directed them to offer to the owners a reasonable compensation for damages to land or for materials, and if it was not accepted, the Governor was by the sixth section authorized to appoint a board for their assessment. *Pamphlet, p. 220.*

From these acts it appears that, in the opinion of the legislature, the Canal Commissioners were authorized to locate and construct the canals and rail roads on private property, to take up and apply it for public use, as well as all materials necessary for its construction and repair, and that provision had been made for compensation to all persons who might be aggrieved thereby. Such opinion however is not of itself sufficient to confer the authority, if it was not given by the former acts; a mistaken opinion of the Legislature concerning the law does not make the law. 12 *W. 148*, and the court is not bound by a legislative misconstruction of a former law, unless it is a positive interpretation of a former act, imposed by the legislature, in subsequent act. 16 *E. p. 333—4*, or the mistake is manifested in words competent to make the law in future. 4 *Taunton, p. 841*. "If the law expresses the sense of the legislature on the existing law as plainly as a declaratory act, and expresses it in terms capable of conferring jurisdiction, the words ought to receive this construction. If this interpretation of the words should be too free for a judicial tribunal, yet if the legislature has made it, if Congress has explained its own meaning too unequivocally to be mistaken, their courts may be justified in adopting that meaning." 12 *W. p. 148, 49, 50.*

In construing these acts of assembly, we must consider them as forming a connected series of legislation, tending to effect an object of infinite public utility, which ought to receive the most liberal and benign interpretation, *ut res magis valeat quam pereat*—to make the private yield to the public interest—such are the settled rules of construing all statutes made for public benefit, or favor of public institutions and all establishments of piety, charity, education, and public improvement, 11 *Co. 70 to 78. Hob. 97, 122, 137, 1 Lev. 55 Dy 255. 5 Co. 14, 6, 10, Co. 28 a 9, Cr. 331—3, Pet. 140, 480, 6, Pet. 436. 7, J. C. 340.*

The Court will look to the object in passing the law, and if it can be discovered in its provisions, will not suffer it to be defeated, but make it answer the intention which the makers had in view. This will be collected from the cause or necessity of making the statute, and will be followed though the construction seem contrary to the letter. A thing which is within the meaning of the maker of a statute, is as much within the statute as if it were within the letter, and a thing which is within the letter but not the intention of the makers is not within the statute. 15 *J.R. 380. 1 S.P. 14. Moss 92—3. W. 55, 94. 6 Pet. 644.* When the whole context demonstrates a particular intent in the legislature to effect a

certain object, some degree of implication may be called in to effect it, 6 Cr. 314.

The sense of the legislature as apparent from the whole statute or other statutes passed before or after on the same subject: the general system of legislation in relation to it, must be taken into view, not according to the words of a statute; but its provisions will be extended beyond or restrained within them according to the apparent sense and meaning thus to be collected, 1 Pick. 254, 5. The history and situation of the country will be resorted to, to ascertain the reason as well as the meaning of a provision to enable a court to apply the rule of construction. 1 W'h. 121.

In doubtful cases, the title or preamble of an act may be referred to, to explain it; 3 W'h. 631; 4 S. & R. 166, and if by a view of the whole, a clear intention is apparent, such intention is the law. No principle is better settled than that in the construction of all instruments, the necessary implication resulting from the language used, is equivalent to express words used to express the intention of the parties.

In examining the various laws on the subject of the rail roads and canals, on which the state has expended twenty millions of dollars, it is impossible to mistake the object in view, or the intention of the legislature; they extend through the most populous and highly improved portions of the state; the ground on which they are located, and the materials for their construction, are owned by individuals, without the appropriation of whose property the object must be necessarily defeated. It would be unnecessary to go into a detail of the acts in which during ten successive years the legislature have authorized the Board of Canal Commissioners to *locate, contract for, construct, complete, and keep in repair* the various works constructed under their authority, in order to extract from them evidence of an intention to authorize an entry on private property, and its seizure for all the uses contemplated. We must be judicially blind not to perceive at the first view that such were the object and intention of the law makers and being so convinced, are bound to give such exposition to their acts as to effectuate the great object designed—the completion of a great system of internal communication by which the whole country is benefited. The courts are bound to protect the property of individuals from all aggression not authorized by law, and to construe strictly and carefully all laws which authorize any men or body of men to appropriate the property of another to their use, so as to confine them within the jurisdiction and powers conferred. 2 Dow. P. C. 521, 34; 1 Burr. 382; 4 Burr. 2244; Lofft. 442; Camp. 26; 3 John. Cos. 810; D. & E. 363, 4. Yet this does not require us to overlook the intention, and regard only the letter of the law; this is not the rule in criminal cases, much less in cases in which the interest of the country is involved. 5 W'h. 94, 5. Were this therefore a case in a court of law depending upon strict legal right, we should not entertain a doubt of the general authority of the officers of the state to make the same use of private property for the completion and repair of the canals and rail roads as if it was given in express terms; the intent is apparent—the words used are competent to give the power; and in our opinion do give it by necessary implication.

The only subject on which we could entertain a reasonable doubt, is the one which is the immediate cause of the present motion. The diversion of the complainants water course was not for the purpose of constructing or repairing the rail road, or any of its appurtenant works—they could be and were completed without a permanent appropriation of this water; nor can it be considered as a material within the meaning of the acts. This word refers to those things which are component parts of the road necessary for its completion in all its parts, but not to the means or facilities of transportation upon it afterwards.

It does not appear from any of the laws prior to those of April last, that it was any part of their original object to furnish engines for the purpose of transportation. They seem only to have had in view the completion of a rail road, with locomotive or stationary engines. *Laws of 1827*, page 194. The commissioners had no authority to purchase or procure engines till they were authorized by the act of last session—"To procure such locomotive engines or tenders for the use of passengers and merchandise as may be necessary for doing the whole or any part of the transportation." *Laws of 1834*, page 503. By an act passed at the same session, a heavy punishment was prescribed for breaking, cutting down or destroying in whole or in part, any *water station, drain, or bank* belonging to any rail road constructed by the state; or stop up, or obstruct any culvert, drain, pipe, *water station, or wall belonging thereto*: page 202. Taking these two laws in connection, it seems to have been the opinion of the legislature that water stations, wells, &c. or the supply of the engines belonging to the rail road as a part of its appurtenances; they certainly are put on the same footing as to protection from destruction or injury, as the bed of the road. This goes very far to show that it was their intention to authorize their being made, though it may be doubted whether such intention can be so made out as to give the power to enter on private property for this purpose, and make a permanent appropriation of a water course. No provision is made for compensation to the owner in the other cases; nor is there any express direction to construct reservoirs or water stations, or to provide a supply of water for the engines by any other means—these considerations have their weight on our minds though we are not prepared to decide that there is a want of, or an abuse of authority in doing the acts complained of, we are far from being so clearly of opinion that the law gives the commissioners this power, as that of constructing and repairing the road itself—on a case on the law side of the court it would be our duty to express a decided opinion on this question; so it may be when this case comes up for a final hearing, if the legislature should not in the mean time remove the difficulty; but on a motion for the injunction, we think it not proper to do it.

In the late case of *Atkinson vs. the Philadelphia and Trenton Rail Road Company*, we declared "that if the act complained of is done under color of authority conferred by law, the Court will not interfere if there is any ground of doubt as to the authority, until the doubt has been removed, and the matter finally determined at law." Still retaining the same opinion and having serious doubts as to the authority in this case, we do not feel at liberty to award the injunction on this ground in the present stage of the cause. We are less inclined to do it, as the effect would be to suspend the transportation on this important road; no appeal lies from our present decision; it would not be final, and infinite injury would result, if we should now give an erroneous one. The case must be a plain one to justify such consequences and a reasonable doubt as to any material point, must be conclusive on a motion.

The counsel of the complainants assume another position, which, if tenable, is an important one; that admitting the power of the commissioners to conduct water to the engines, yet it must be done from land contiguous to, adjoining, or near the road, according to the words of the act of 1826, [Sect. 8 page 55.] and other acts making provision for damages in taking materials. These words must have a reasonable interpretation, according to the subject matter, with reference to the object to be effected, of which the officers to whom the power of taking materials is confided, must judge according to their discretion. *Near* does not necessarily mean *next to*, but a reasonable vicinity [W. Bl. 20] what that is, must depend on local circumstances.

That another tract of land separates the rail road

from the premises of the complainants is, therefore, no objection to the exercise of the authority to take materials, or to direct water for the use of the road, if it is necessary for that purpose. On this subject there is great contrariety of opinion between the persons whose affidavits have been taken for our information.

On the part of the complainants, it is contended that the diversion of their water course was not requisite; inasmuch as there was a sufficient supply of water upon the tract of land through which the road passes, which could be used with more convenience and at less expense, in which they are supported by the affidavits of very respectable persons, of competent capacity to form a judgment; on the other hand the respondents are sustained in the opposite opinion by the affidavits of persons equally respectable and competent, so far as we know. There is thus an issue of fact between the parties, which we cannot decide on a motion, when there is such a difference between the affirmants, both as to matter of opinion and fact. Should the case ultimately turn on the necessity of diverting the complainants water course, in order to effect the object of the law, the verdict of a jury ought to be taken on suit brought, or an issue directed; it is not our province, (at present at all events) to judge of the credibility of witnesses, or weigh their respective opinions; it is enough for the purposes of this motion, that the fact is so extremely doubtful as to make it difficult for us to form an opinion on the question of the necessity. By awarding the injunction on the ground assumed by the complainants, we should pronounce a judgment on conflicting evidence: whereas, by referring to an issue, or the final hearing, we should not incur the hazard of doing an irrevocable injury, by a premature order which on more full information, it might be our duty to annul. Besides, this is a matter so much of discretion, that we would interfere only in a plain case of abuse or a want of discretion on the part of the public officers, intrusted with the execution of the work.

The Canal Commissioners are a tribunal constituted for this purpose, with power to appoint subordinate officers, who act under their supervision; the law has confided to the board a broad discretion which no other tribunal can assume to itself; while they act within their jurisdiction, and exercise their judgment on the matters confided to them in good faith, their acts are clothed with the authority of the law, and their judgment is conclusive, unless some mode of revision is provided for by an appeal to some other tribunal. 6 Pet. 729, 2 Pet. 412, 2 D. P. C. 521. 20 J. R. 74. 7 J. C. 340. 4 Wh. 423—S. P. Atkinson vs. Savage.

In the affidavits we can perceive no ground of imputation of bad faith in the Commissioners or their agents; they profess to have acted in the exercise of their discretion, according to their judgment, and not from partiality or design to oppress the complainants or improperly favor others. Under such a state of things, if we differed in judgment with the Commissioners, as to the necessity of diverting this water course, and were even of opinion that one equally convenient could be found without going on the complainants' premises, it would be no ground for an interference. So long as it is a mere question of discretion, depending on the relative conveniences and facilities to effect the authorized object, it is intrusted to a tribunal over whose honest and impartial judgment we have no appellate power. We can prevent the effects of perversion or abuse of discretionary power, but not of their legitimate, honest exercise; the latter belongs exclusively to tribunals of appellate jurisdiction.

These reasons would induce us to decline granting the injunction, on motion, if there were no others, but we cannot omit noticing another which has powerful if not conclusive influence on our minds. The acts complained of, were begun on the 19th May, of which the agent of the complainant had notice on the 22d. On the 28th an attempt was made by him with the assis-

tance of a peace officer and some others, to take possession of the land and expel the respondents and their workmen, but without success; the complainants notified them not to proceed with the work, but took no further means to prevent its progress or completion, till the filing of the bill on the 25th June; in the mean time the dam was built to the height of eight or ten feet, a trench dug across the land of the complainants, and the water of the stream conducted to a reservoir on the adjoining farm, whence it was conveyed through pipes to the engine house.

As the nature of an injunction is to prevent the doing an act threatened or about to be done, it is too late to apply for one after the act is consummated; the dam is erected, the trench is dug, and water flows through it; we cannot order the one to be prostrated or the other to be filled up; by acquiescing in the commission of these acts, after ample notice, the complainant has rested on his legal rights and looked to his legal remedies; having suffered the thing to be done, his preventive remedy cannot apply, and he must look to damages for his past injuries. Injunction is a remedy altogether prospective. It was in the complainants power to have applied for one, either in Court or to either of the judges, as soon as they had notice of the intended works. They had their election to apply for the preventive or wait for the compensatory remedy; as to acts committed before the filing of the bill they must look to the latter remedy, though it is not too late to apply for the prevention of any future injury which is in its nature an enjoinder one when impending or threat ended.

There is no allegation that any act of this kind is about to be done on the premises, unless it be the conducting the water from the dam through the trench in pipes to the reservoir.

Taking this as the gravamen of the bill, we cannot perceive in it an irreparable injury to the complainants property; it would redress one act complained of by filling up the trench over the pipes, leaving the surface of the ground unbroken, without in any way interfering with its use for tillage or pasture, which would be much less injurious than an open ditch or trench—whether the water sinks into the earth in the trench, or is conveyed to the reservoir in pipes, matters but little to the complainants, its use is lost in either case; an injunction against using pipes would therefore be of no benefit to them in preventing the diversion of the water, while the dam and the trench remain, yet it might immediately suspend all operations at the inclined plane. Under such circumstances we cannot therefore consider the mere act of laying pipes to be such an injury as is the subject of an injunction, and the other act complained of having been done before the bill was filed, we think there has been such acquiescence, such reliance on the legal remedy, and such expenditures made on behalf of the state, as precludes the complainants from any present relief in equity. Had the application been made as soon as the work was commenced, the attention of the Commissioners might have been directed to other sources for a supply of water if they had been accessible, and thus have avoided the risk of a suspension of their operations; the conduct of the complainants may have led them to the belief that the only subject of controversy was damages for the injury sustained by the diversion of the water, and to the expenditure of money in the construction of the works.

By standing by after notice of the commencement of the work, until near its completion, when all the substance of the injury had been committed, without calling for the interference of equity to arrest its progress, the complainants must now be content to abide by their legal remedy or he refused any equitable relief until a final hearing. 2 Dow. P. C. 536.

The complainants counsel have considered the acts of the respondents to be illegal, because they have en-

tered upon the premises without notice, or any offer to make terms with the complainants in relation to damages, as is required by several of the acts in relation to the Canals and Rail Roads of the State. This question would arise on an action of trespass for the entry, but not on a bill in equity, circumstanced as the present. It might have been a good reason for our interference to suspend the work, till all the requisites of the law had been complied with, and the effect of the omission may be to make the respondents trespassers, although their authority would have been ample after notice and an attempt to procure a release or adjust the damage, but the neglect to do it can have no bearing on the present motion on account of the lapse of time and the submission to the acts done.

It is also contended that the acts of the respondents are without any authority in law, because no compensation has been made for the property thus appropriated to public use, and we know no mode provided by law for assessing damages in a case like the present one.

If the complaint of this bill was the want of any provision for compensation, or of its actual payment before taking actual possession of the premises, or applying the water to public use, and the prayer had been to order a suspension of all proceeding till it had been done, there might have been strong grounds for our interference; the obligation upon the state to make compensation is undoubtedly co-extensive with their power to take or apply private property to public use. As this obligation is a constitutional one, it is not impaired by the omission to provide for it by the law which authorizes the entry or seizure; it can be enforced by action for damages in courts of law and injunction in those of equity.

We are far from saying that a law is void which gives the authority without directing compensation to be made in some way, or that the legislature may prescribe the mode in which it shall be done without a trial by jury. inquisition or writ *ad quod damnum*, nor that a party is not entitled to all his common law remedies if the law is silent on the subject. Whatever may be the decision of a Court of Law on the constitutional right of an owner of property thus taken on any question of damages, depending upon the strict principles of law, which would be imperative on the Court;—a court of equity acting according to sound discretion on the principles of *Equum et Bonum* would not interfere, if a just compensation was offered, or the State was willing to make some equitable adjustment of the damages.

The question is not however now before us. The right to take the property in question under any circumstances is denied on the ground of there being no law which authorizes it to be done for the purposes to which it is applied, even if compensation was provided, for the complainants do not offer to cede or relinquish their right on receiving compensation. The object of the bill is not money, but to retain the same full property and dominion over the lands as they have heretofore enjoyed before the entry upon it by the respondents. If they ask and receive compensation, their right to the water passes forever to the State, as the use to which it is to be applied is to be permanent. Should we now enjoin the agents of the State till compensation is made, the injunction would be dissolved on its payment;—when the complainants are willing to admit the right to take and use the water, and tender the prayer for general and other relief, or by an amended or supplemental bill, shall ask for just compensation for injuries sustained, the matter will be fully and fairly before us to award or refuse the injunction, as the justice and equity of the case may require.

At present there is no ground in which we can feel justified in granting the injunction, the complainants must be left to their remedy on a final hearing in an action at law.

From the Wilkes-Barre Democrat.

## IMPROVEMENT OF THE SUSQUEHANNA.

At a meeting of the Susquehanna Steamboat and Navigation Company, convened at Col. Dennis' tavern in Wilkes-Barre, on Friday the 15th instant, agreeably to previous notice, on motion,

JOHN N. CONYNGHAM, Esq. was appointed Chairman, and H. B. WRIGHT, Secretary.

After the object of the meeting was stated by the Chairman, the Hon. Samuel D. Ingham, from the committee appointed to confer with a committee of the citizens of Owego, friendly to the navigation of the Susquehanna by steamboat, in connection with the report of said committee, remarked at considerable length on the perfect feasibility of the plan of navigating the Susquehanna by steamboats for a considerable portion of the year, between this place and Owego, without any improvement in the river, and that by a comparatively small expense, it is susceptible of being made navigable throughout the season. He observed there could be no possible doubt on the subject, having taken careful observations, by descending the river from Owego to Wilkesbarre with the committee, accompanied by Mr. Hopkins, an able and efficient Engineer, and Capt. Jenkins of Philadelphia, and other gentlemen. He also urged the immediate action of the citizens of this place on the subject, stating there was generally a corresponding feeling expressed in all the towns on the river between this and Owego, to forward the object. Mr. Ingham was followed by Capt. Jenkins and Mr. Hopkins, who expressed their decided belief in the successful result of the experiment. After various other remarks by gentlemen of this place, it was

Resolved, That the proceedings of the joint committee of Owego and Wilkesbarre, who met at Towanda, meet the decided approbation of this meeting, and are accordingly approved.

Resolved, That a committee of seven be appointed by the Chair, to nominate thirteen Managers for said company.

Whereupon the Chair named Messrs. G. W. Woodward, B. A. Bidlack, J. L. Butler, L. S. Coryell, E. Carey, and E. W. Sturdevant, who reported the following persons to be ballotted for as Managers of said company.

Messrs. James Pumpelly, William A. Ely, H. W. Camp, Lathan A. Burrows, Jonathan Platt, Amos Martin, and J. S. Pumpelly, of Owego, Samuel D. Ingham, of Bucks county, and George M. Hollenback, Henry Colt, and Henry Pettebone, of Wilkesbarre.

Resolved, That the report of said committee be adopted,—which passed unanimously.

Resolved, That the thanks of this meeting be presented to the gentlemen from Bucks county and abroad, as also the committee, for their exertions in behalf of the object of their appointment.

Resolved, That the stock of said company be increased from 5 to 10,000 dollars, to be a joint stock company, and divided into shares of \$10 each, for the object of navigating the Susquehanna by steamboats.

Resolved, That the proceedings of this meeting be signed by the Chairman and Secretary, and published in the papers of Luzerne and Bradford counties, in Pennsylvania, and in Tioga county, New York.

On motion, the meeting adjourned.

J. N. CONYNGHAM, Chairman.

H. B. WRIGHT, Secretary.

At a meeting of a number of gentlemen, appointed a committee on the part and behalf of certain citizens of Wilkesbarre, Owego and Towanda, subscribers, &c., for the purpose of building a Steamboat on the Susquehanna river; convened at the House of Maj. Lyman Hodges, innkeeper, in the borough of Towanda, on Monday the 10th day of August, 1834.

Hon. S. D. INGHAM, appointed Chairman, and STEPHEN STRONG, Secretary.

Col. J. Butler, presented to the meeting a letter from Capt. Beer, as to the plan, size, cost and construction of the Steamboat Beaver, on the Ohio river.

The Chairman read a communication on the same subject, and apparently regarding the same boat.

Mr. J. Hopkins, Engineer, remarked on the practicability of navigating the Susquehanna river by means of steam, and expressed his entire conviction of the feasibility of the measure. He said that himself, in company with other gentlemen, had just come down, in a craft, on the river—that they had made many and careful observations on the state of the water, &c. and were all agreeably disappointed in finding the current—ripples, &c. more favorable for the object in view, than had been anticipated, (so far as they had examined the same)—and that, in no place did they find the current greater, than at the rate of  $3\frac{1}{2}$  miles the hour, between Owego and Towanda.

Col. Butler offered the following resolution:

Resolved, That an Election be held at the house of L. Manning, innkeeper, in Owego, on Thursday, the 21st day of August, inst. for one President and twelve Managers, to be styled; "The President and Managers of the Susquehanna Steamboat Navigation Company." This resolution was unanimously adopted.

Mr. Carey offered the following resolution:

Resolved, That this meeting request of Mr. Hopkins, Engineer, now engaged in making an examination of the Susquehanna river, from Owego to Wilkesbarre; (after the same shall have been completed) a report of his opinion of the practicability of a Steamboat navigation, between those two points; with such other information in detail, as he may deem useful on the subject; which resolution was also unanimously adopted.

Col. Butler offered the following resolution:

Resolved, That this meeting deem it expedient, that a majority, or a quorum of the board of managers, should reside at Owego; and that it be recommended to the stockholders, to make that arrangement, in the election of persons for the officers of their company.

Before this resolution was put to the meeting, the Chairman remarked, that the object of the proposed resolution was apparent;—that it had already been a matter discussed and talked of amongst the individuals concerned, and it had been deemed expedient, that the Boat should be built at Owego, in consequence of the greater facilities for building the Boat there than elsewhere; and that it would be proper and necessary, that a majority of the managers should reside near the place where the Boat was to be built. The resolution was then passed unanimously.

Resolved, That the proceedings of this meeting be signed by the Chairman and Secretary, and published in the newspapers of Towanda, Wilkesbarre, and Owego.

The meeting then adjourned.

S. D. INGHAM, Chairman.

STEPHEN STRONG, Secretary.

#### *Meeting of the Harrisburg General Committee.*

At a meeting of the General Committee of the citizens of Harrisburg, favourable to the project of constructing a National Sloop and Steamboat communication, by the way of the Susquehanna river, from the Chesapeake Bay to the Lakes, August 6, 1834, the following officers were chosen.

Valentine Hummel, President.

Mordecai McKimney, Secretary.

Henry Waters, Treasurer.

A communication was received from Dr. William Howard, U. S. Engineer, estimating the expense, and making several suggestions relative to the proposed improvement, and stating that "by his orders, he was entirely under the direction of the committee, and ready

to execute any plan of operations which they might determine."

The following gentlemen were then chosen an Executive committee.

Henry K. Strong,

Jacob M. Haldeman,

George Mish,

John C. Bucher.

Valentine Hummel.

The communication of Dr. Howard, was referred to the Executive Committee with instructions to devise a plan of operation for the Survey, and to act as a committee of correspondence.

From the Pittsburg Conference Journal.

#### ALLEGHENY COLLEGE.

The Pittsburg Annual Conference of the Methodist Episcopal Church, to their brethren and friends within the bounds of their charge, greeting:

Dear Friends and Brethren:

We take this method to lay before you our views and plans of operation in reference to Allegheny College, and to request your aid and co operation with us in accomplishing the work we have undertaken.

The General Conference have made it the duty of each Annual Conference to establish and patronize a seminary of learning, to which our friends who are so disposed may send their sons for an education. Several of the Conferences have been successfully engaged in this work, and the seminary thus established have been owned by the Great Head of the Church, and visited with revivals of religion.

Within the bounds of the Pittsburg Conference, such a seminary was much needed; and during the last year, while we held our session at Meadville, Providence directed our attention to Allegheny College. The entire superintendence of it was offered to us; after much prayer and deliberation, an agreement was made with the trustees, by which it was placed under our patronage and control, upon terms which are entirely satisfactory to them and us. We made arrangements for establishing a course of instruction, and undertook to raise funds sufficient to secure its continuance. The Manual Labor System has been adopted, and is likely to be successful in affording extensive facilities to the poor who may resort to it for instruction. Though the College was opened in Autumn last with a small number of students, continual additions have been made, and they now exceed one hundred. The buildings are spacious and in good order, the library is the largest in the western country, and the place healthful.

Nothing is wanting to complete this enterprise, but a sufficient amount of funds to meet its necessary expenses. We have undertaken the endowment of two professorships and several scholarships, and have appointed three agents, to travel and raise subscriptions for those purposes.

An application was made to the Legislature of Pennsylvania, at its last session, for an appropriation of money, to aid the trustees in establishing the Manual Labor Department, and in paying some debts yet due for the College building. The Legislature granted a sum of eight thousand dollars, to be paid in four annual instalments of two thousand dollars each, on the express condition that the same amount shall be raised by donations in money, for the use of the College, and actually paid into the treasury. To comply with the condition necessary for obtaining this appropriation, will require great exertions on our part, and liberality on the part of our friends. But when we consider the importance of obtaining so valuable a condition, and that a compliance with the condition will be greatly to our advantage, we trust our friends will freely grant us their assistance.

A considerable amount has been obtained during the last year, in notes bearing interest payable annually; and it is expected that large amounts will be raised in

such subscriptions during the en-uing year, by the agents appointed. But besides that arrangement, it is necessary to adopt some measures that will secure the sum of money that is requisite in obtaining the appropriation by the Legislature. To do this effectually, and at the same time accomplish it in the most easy and expeditious manner, we have undertaken a dollar subscription, in which we hope our brethren and friends will generally unite.—And while many persons will be solicited by our agents to make larger subscriptions, we earnestly request that all our members and hearers will give one dollar each in view of this object. We believe God will bless them in the attempt, and that the institution, if rendered prosperous, be extensively useful in promoting the interests of the Redeemer's kingdom.

We remain, dear brethren and friends, your servants and pastors in the Gospel of Christ.

Signed in behalf of the Pittsburg Annual Conference,

JOSHUA SOULE, President.

CHARLES COOKE, Secretary.

Washington, July 22, 1834.

### CHOLERA AT PITTSBURG.

MAYOR'S OFFICE, }  
August 15th, 1834. }

At a meeting of the Sanitary Board, held this morning the following reports were ordered to be published.  
SAML. PETTIGREW, President.

#### To the Sanitary Committee:

Since your meeting on the 15th inst. three cases of death from Cholera have been reported, one in the city, near the east end of the Tunnel, and two in the borough of the Northern Liberties.

I have thought proper to append to the above report, a detailed statement of the number of deaths that have resulted from Malignant Cholera this season, as near as can be ascertained by an assiduous inquiry among the Physicians of the city and neighboring boroughs.

This course has been deemed prudent, that you might take such action on the subject as may tend to counteract the exaggerated reports that have been circulated throughout the country.

	No. of deaths.
East of the Canal, near the city line	9
Hoggtown	1
Sixth street	2
Seventh do.	1
Smithfield street	2
Lafayette do.	1
Strawberry alley	4
At the Point	2
Penn street	1
Borough of the Northern Liberties	9
do. Allegheny	5
Fountain Inn, including Kensington	
and Summerville	5
Off Steamboats	3

The above list may be depended on, as an exact statement of the number of deaths attributed to Cholera, that have occurred within the city and neighboring boroughs and villages, since the latter end of May until this period, a lapse of more than 70 days.

This fact affords the best evidence that the disease has been very moderate in its course amongst our population, which, connected with the observation, that almost every case that has proved fatal, has been found to originate either in the vicinity of pools of water, rendered putrid by the decomposition of animal and vegetable substances, or in close, damp, and filthy hovels, should quiet every alarm existing among the temperate and cleanly—and particularly those who reside free

of the foul miasma generated in the eastern part of the city.

The Cholera has not yet prevailed as an epidemic throughout the city, and it is to be hoped will not assume that alarming character, whilst our citizens observe the cautions received during its two former visits, and exercise prudence in avoiding unripe fruits, and protecting themselves from the sudden variations of our climate. These prudent means are the best preventives of this dangerous disease.

J. R. MCCLINTOCK,  
Health Physician.

Friday, 11 o'clock, Aug. 15, 1834.

Hospital, Aug. 15, 1834.

The following cases have been received since last report:—

Aug. 3. Mrs. Gordon, included in the statement of the Health Physician, in deep collapse, died a few hours after admission.

Aug. 4. Mr. Gordon, incipient Cholera, discharged, cured, on the 7th.

Aug. 4. Robert Grooms, incipient Cholera, discharged on the 9th.

No new cases have been received since the date of the last.

Yours, respectfully,  
CHAS. L. ARMSRONG,  
GEORGE D. BRUCE,  
Hospital Physicians.

Samuel Pettigrew, Esq., President S. B.

Published by order of the Board.

SAM'L PETTIGREW, Pres't.

To S. Pettigrew, Esq. Pres't of Sanitary Board:

Within the last three days, 5 deaths from Cholera have taken place in the city and adjacent boroughs, &c.

J. R. MCCLINTOCK,  
Health Physician.

Aug. 18, 1834.

### OFFICIAL.—MINT OF THE UNITED STATES.

Philadelphia, August 16, 1834.

Statement of the amount of gold subject to coinage under the new ratio, deposited within the period commencing 1st of June, and ending 1st August, 1834, with the whole amount coined to the latter date from August 1st, and the amount of coin delivered.

Gold Bullion deposited in June—coinage deferred under an anticipation of the act of Congress, 61,500

Gold deposited in July, and deferred, viz:  
Uncoined Bullion, \$133,300  
Coins of the United States, 226,300  
Foreign Coins, 47,400

407,000

Gold deposited from the 1st to the 9th August:

Uncoined Bullion, 25,000  
Coins of the United States of former standard, 48,000  
Foreign Coins, 3,000

76,000

544,500

Whole amount coined from 1st to 9th August, 310,000

Remaining uncoined August 9th, \$234,500

From the National Gazette.

### IMPROVEMENT.

We witnessed the recent harvestings in some of the most cultivated and beautiful parts of the interior of our commonwealth. What exuberance! What secu-

rity, what vigor of cheerful toil! By the force of contrast, we were made to think of the accounts which travellers furnish of the scene of harvest in some parts of the east, and among the mountain barbarous tribes of Russia—the reapers and even the females armed, always expecting the attacks of hostile and predatory bands—sentinels posted—frequent alarms—bloody conflicts—the most sudden and destructive devastation—and the hopes and fruits of their industry blasted as if by a whirlwind. In the narratives of the first settlements in these United States, even in Pennsylvania—there are similar pictures of danger, precaution and disquietude, both when the fields were sown and reaped. Arms were constantly within the grasp and reach of the new comers, to defend them against the wily and prowling Indian, to whom they not seldom fell a prey in this situation. In our western and north and south western regions, the same circumstances are within the experience or remembrance of many living persons. When we consider what the harvest is now, in all respects, in Kentucky, we can hardly admit the reality of the trials and conflicts to which the early adventurers were exposed in sowing and securing their small enclosures;—it is difficult to believe that the number of years is so few comparatively, which have elapsed since the era of temporary log huts, block houses, corn field battles, incursions and captures by savages reclaiming their hunting grounds.

Large tracts of the country between Philadelphia and Lancaster, are unsurpassed in culture and productiveness; but we have been more struck with the farm scenery between Lancaster and Mount Joy, and between Harrisburg, Lebanon, and Reading. There are portions of ten or twelve miles in mass on both sides of the high road, which certainly rival any similar agricultural display in the world, in picturesque effect, splendor of crops, and evidence of industry and knowledge in all the arts of husbandry. The general prospect of some of these miles of farms, with their large and massive dwelling houses and barns, and especially their perfect meadows just cut, forced us to stop, and gaze for many minutes with admiration and delight. What view of rural location and culture surpasses that of the approach to Reading from the west?

In the region to which we refer the material and the only changes wrought of late years, in the aspect and modes of things, are referrible to the rail roads and canals of which the farmers and manufacturers have begun to feel and comprehend the manifold advantages in detail. Who that witnessed the multitudes of wagons, stages, and travelling vehicles of every description, on the main turnpikes, only a few years ago, would have credited a prediction that there would be scarcely any at this time—that all the movement, bustle, and business would be on other routes, and by other kinds of conveyance? Absolute dreariness now reigns on the turnpike between Philadelphia and Harrisburg, and the further and collateral roads upon which there was formerly so much life and transportation. Travellers are no longer expected at the inns; and in consequence, the accommodations are not what they were. The rail roads and canals absorb the custom; the facilities and benefits they afford have, too, largely increased business, enterprise, and locomotion; they have forced a sense of their superior value and convenience on the most reluctant of the sticklers for the ancient land marks. *Stare super vias antiquas* is an abandoned maxim, which will certainly become obsolete in due season. Attention is turned eagerly and exclusively to the rapidity of the rail road intercourse, and the greater quantity of produce and merchandise which can be carried by the canals at so much less cost, than by the best possible teams. The farmers calculate the difference, and dwell upon it with astonishment. The very boatmen follow out the new communications to the Ohio, and looking down and beyond that river, express their assurance of commanding the trade of the far west for

Pennsylvania. It is for our legislature to take advantage of the favorable dispositions of the people, and to confirm their new experience, by embracing the proper scope and varieties of *internal improvement*. We have not adverted to the coal regions; but what a field is here for the production of diversified wealth—what resources for the increase or development of all the other means of boundless public opulence and power!

Our great commonwealth has been endowed by nature and mainly toil with a various fertility, affluence, convenience, beauty, and capacity of strength and eminence, in a degree that defies any brief description, and should be made known by a minute and most comprehensive statistical survey. We lose, not only in repute, but in permanent acquisition from abroad of substance and population, by the ignorance of the distant world respecting our condition and hopes.

From Poulson's American Daily Advertiser.

#### LYKENS VALLEY COAL MINES.

In my late excursion through the country, bordering on the Susquehanna river, I visited Lykens Valley, in Dauphin County, and the coal mines on Bear Creek, a branch of the Wiconisco Creek, in William's Valley; this valley is separated from Lykens by the short mountain, which terminates about four miles west of the coal mines.

The location of the mines is most advantageous—about 16 miles from the river at Millersburg—the rail road from the mines is now completed, and in use—it is a single tract, with turnouts—of easy grade, well made, and substantial—the coal, as mined, is loaded into the cars from a chute, at the mouth of the drifts, taken to the landing, and transported to the western side of the river in rail road flats; the cars, which are easily drawn from the boats up a rail road on the west of the river at Mount Patrick, are then discharged into canal boats, and forwarded to Columbia and other towns on the river—the coal destined for Port Deposit, and thence shipped to Baltimore, and other sea ports, are loaded at Millersburg, in arks.

The mines belonging to the Wiconisco Company are fourteen in number—(laying from 40 to 80 feet apart) these are divided or cut through by a deep ravine, through which Bear Creek passes—from the water level to the top of the mountain, on both sides, is an elevation of about 800 feet—the veins thus divided are equivalent to 28. At present there are seven drifts from which coal is taken, four on the east, and three on the west of the creek; three of these are seven feet in thickness, two, eleven feet, and two, five feet. These drifts are in very fine condition, and capable of delivering 150 tons of coal or more daily; the quality of the coal is very superior and pure—entirely free of slate—of easy ignition—burns with a strong flame, and is lasting. A gentleman who used it the last winter informed me, that the residuum was unusually small—in the use of a ton there was not more ashes (which are of a reddish brown) than would fill a half peck. It is used in grates, stoves, by blacksmiths, distillers, and lime burners.

The town of Wiconisco is very pleasantly situated. It consists of a large brick building, agent's residence, a large tavern house, kept by Mr. Sheaffer, whose table is well supplied with fresh salmon and rock, trout, and pike fish; with pheasants and venison; he keeps an excellent house in every respect—a store; twelve miner's houses, saw mill, smith's shops, stables, &c. The situation of the town is quite agreeable—is in the vicinity of a dense population—the extended and fertile valley called Lykens—this town must increase greatly—the first house was built in 1830-31.

The location of the mines is in the most southern range of the coal regions—the landing on the river only 26 miles above Harrisburg, and consequently 80 miles nearer market than any other coal which is brought.

## LAND TITLES.

(Continued from page 125.)

It remains briefly to bring into view the various acts which have been passed on the subject of the public lands of the state, since the act of 3d of April, 1792, and not already noticed.

By an act entitled "An act directing the sale of certain islands in the river Susquehanna," passed 6th of March, 1793, (post. chap. 1649,) upon application made by any person to the Land Office for a warrant of survey for any island in Susquehanna or its branches, so far as such branches have been declared highways, it was made lawful to issue such warrants on certain conditions and restrictions; but no warrant to issue for any islands surveyed and returned to the late proprietaries, prior to the 4th of July, 1776.

§ 2. Applicants to state any improvements on the islands, the nature of them, and when and by whom made. Improvers to have the preference for two years; after which warrants may issue in favor of the first applicant; and warrants issuing otherwise, shall be deemed to have issued by surprise, and be void, and the money paid be forfeited to the commonwealth.

§ 3. Caveats may be entered, and decided by the Board of Property in the usual form.

§ 4. The Board of Property, with the approbation of the Governor, shall ascertain the just value of the islands applied for, whether improved or not, having regard to the soil, wood, and distance from the main land, and the advantages to be derived from the same in regard to fisheries; but the lowest price shall not be less than eight dollars by the acre.

§ 5. No warrant to issue for any island, unless the same is susceptible of cultivation, nor unless the whole purchase money shall be paid to the Receiver General, nor for any quantity less than the whole of any such island; and all sandbars and islands, not susceptible of cultivation, and not surveyed and returned into the Surveyor General's office, for the use of the late proprietaries, prior to the 4th of July, 1776, shall be and remain common highways forever.

§ 6. Patent to be granted in the usual form, on payment of the full purchase money.

§ 7. Existing rights to any islands, not to be affected by this act.

The following case occurred under this act, at a circuit court, at Lancaster, April, 1835, before Yeates and Smith, Justices, *Lessee of George Moore v. John Mundorff*. (MSS. Reports.)

Ejectment for a small island in the river Susquehanna.

The plaintiff claimed under an application dated 29th of May, 1794, whereupon an order issued to three persons to view it. They reported on the 17th of November following, that the island was susceptible of cultivation, and valued it at 4 $\frac{1}{2}$  per acre.

On the 11th of December, 1794, George Mundorff entered a caveat against the acceptance of Moore's survey, alleging that he had a valuable improvement on the island, and ought to have the right of pre-emption.

On the 8th of June, 1797, Moore made a second application for the island, asserting it to be then improved, and in his possession: And on the 24th of August, 1802, John Mundorff, in behalf of himself, and the other heirs of George Mundorff, entered another caveat, claiming under an improvement made ten years before, for the purpose of tillage, and asserting that he had many years previously improved the same as a shad fishery, and had applied for a grant of the island, at the time of his entry of the first caveat, December 11th, 1794.

On the 13th of December, 1802, the Board of Property decided, that the improvement of George Mundorff being earlier than Moore's, and the former having never relinquished his claim, but filed his caveat in December, 1794, wherein he claimed by virtue of his im-

provement, which claim being made within the time limited by the act of 6th March, 1793, the caveat of George Mundorff, and the claim of George Moore, were dismissed.

On the same day, John Mundorff entered a formal application for the island on behalf of himself and the other heirs of George Mundorff; but this application was not produced in evidence, till the trial was nearly closed.

The chief value of the island consisted in its being a proper place to draw a seine for a shad fishery, Moore, in 1795, and 1796, with a party, had cleared away some bushes on the island, and fished there; he had also a fishery on the eastern shore of the river, opposite to the premises;—but it appeared, that George Mundorff, who lived as a tenant on an adjacent island, called Burkholder's, about 12 perches distant, had in 1779, and in the succeeding years, done work thereon, by digging down the banks as it washed away, and cutting the brush as it grew up, to fit it for a fishery, and had also cleared out the pool, and fished there occasionally with a company who assisted him in the work, and claimed an interest in the fishery. His cattle were driven in and out of the island by his children. In 1790 he had a small pen inclosed of 10 or 12 yards square, in which he cultivated tobacco, and in the three following years, he raised therein Indian corn, turnips, and rye, which he afterwards gathered. It was generally known by the name of Mundorff's island.

Yeates, J. The right set up to this island on each side, is twofold. Improvement, and application to the Land Office. As to preparing a pool, and cutting brush to effect a good landing for drawing the seine on an island, it has been objected, that these acts cannot be deemed an improvement, which can confer an equitable interest in the land. The position is correct in general; because the act of 6th March, 1793, "directing the sale of certain islands in the river Susquehanna," provides in the 5th section, "that no warrant of survey shall issue for any of the said islands, unless the same is susceptible of cultivation," and therefore the improvements must be made thereon. But the question may at some time be worth considering, whether when the fitness of an island for the landing place of a fishery, constituted its chief value, though a very small part of it may be cultivated, the clearing out a contiguous pool, and removal of the obstructions of brush from the landing, may not be deemed a species of improvement, as it necessarily enhances the value of the soil? We give no opinion on this point, as the case does not need it. If the question shall be determined in the affirmative, then the defendant's claim is several years earlier in point of time than the plaintiff's: If in the negative, they stand on the same footing in this particular, and the plaintiff is bound to show his superior right, before he can recover; his second application of 1797, calling for his improvement, was misconceived. Old Mundorff actually cultivated the soil of the island by raising tobacco, Indian corn, turnips and rye, thereon, for four successive years, undisturbed by any one; his little patch being surrounded by a rough inclosure; and did occasional acts of ownership thereon. These acts cost labor, though not a great deal.

The only point to be considered here is, whether the defendant's claim is forfeited, for want of an application to the Land Office in due time?

The Law of 6th of March, 1793, confined the preference to improvers of the Susquehanna islands to the term of two years after the passing of the act; after which period the right of pre-emption ceased. This term would have expired on the 6th of March, 1795.

But the act of 23d of September, 1794, (*infra*) which was made five months and thirteen days before the end of the two years, suspended the operation of the former act, as to taking up lands without a settlement and improvement thereon. This suspension was not taken off until the 23d of March, 1802, (*infra*) when an act

passed for that purpose, so far as related to the islands in the Susquehanna. Add to this last period, five months and thirteen days, and the term of two years is protracted until the 5th of September, 1802, so that if either the first or second caveat would be considered as applications within the true meaning of the first law of March, 1793, they both fall within the term of two years. The first caveat was supposed by the defendant to be tantamount to an application, because he recites it as such in the caveat filed after his father's death. It is true no survey could be made on either of the caveats, nor could a survey have been made on the application without a warrant; but the caveats were assertions of claim, and in my idea were virtually applications for the island; they negative all idea of abandonment, when set up in opposition to an adverse claim, asserting the right to be in the caveators, and persisting in their claim to a right of pre-emption. On this matter however, the court were divided in opinion this forenoon. It now appears, that immediately after the decision of the Board of Property, the defendant formally applied at the Land Office for the island, in behalf of himself and the other heirs of his father. While the controversy subsisted before the Board, he was stopped from going on to better his title; and as to the plaintiff, he cannot be said to have forfeited his pretensions for want of an application. I therefore think the plaintiff is not entitled to recover.

Smith, J. I feared before the court adjourned this forenoon, there would have been a difference of opinion on the bench. As to the caveats, I decidedly am of opinion, they do not amount to applications within the intention of the act of 6th of March, 1793. But on the production of the defendant's application of 13th of December, 1802, for the island in question, I am clear that the plaintiff is not entitled to recover. Verdict for defendant.

On the 22d of April, 1794, an act was passed (post chap. 1755,) entitled "An act to prevent the receiving any more applications, or issuing any more warrants, except in certain cases, for land within this commonwealth."

It enacts, that, after passing the act, no applications shall be received in the Land Office, for any unimproved land within that part of this commonwealth, commonly called the new purchase, and the triangular tract upon Lake Erie.

§ 2 No warrant shall issue after the 15th of June, (1794,) for any land within that part of this commonwealth, commonly called the new purchase, and the triangular tract upon Lake Erie, except in favor of persons claiming the same by virtue of some settlement and improvement made thereon; and that all applications for lands that may remain on the files of the Land Office after the said 15th of June, and for which the purchase money shall not have been paid on that day, shall be null and void; provided that applications may be received, and warrants may issue, until the 1st of January, 1795, in favor of any person or persons to whom any balance or balances may be due in the Land Office, on unsatisfied warrants issued before the 29th of March, 1792, for such quantity of land respectively as may be sufficient to discharge such balance, or balances; provided, that nothing in this act shall be so construed, as that warrants, except those wherein the land is particularly described, shall in any manner affect the title of the claim of any person having made an actual improvement before such warrant is entered and surveyed in the deputy surveyor's books.

By a supplement to this act, passed 22d of September, 1794. (post. chap. 1773,) it is enacted, that from and after the passage of said supplement, no applications shall be received at the Land Office, for any lands within this commonwealth, except for such lands whereon a settlement has been, or hereafter shall be made, grain raised, and a person or persons residing thereon.

§ 2. All applications made since 1st of April, 1784, on the files or books of the Land Office, for lands within this commonwealth, for which the purchase money has not been paid, shall, from the passing of this supplement, be null and void; provided, that all persons shall have the benefits of the act passed March 29th, 1792, entitled "An act to authorize the Receiver General, to carry moneys received into that office since a given period, for lands sold, and which have not been, nor shall be secured to the purchasers, to the credit of such purchasers, or their assigns, in payments already due, and hereafter to become due to the commonwealth, for the purchase of any lands within the same," agreeably to the provisions contained in a supplement to said act, passed March 6th, 1793, (ante. page 202-3.) Provided also, that nothing herein contained shall be construed to abridge the time for patenting of lands, or in any wise injure the rights of those persons who now hold, or hereafter shall hold lands by virtue of actual settlements made or to be made, under the law of 3d of April, 1792.

By an act passed 23d of March, 1802, (post. chap. 2251,) so much of the above supplement, as prevents or bars the issuing any warrants under the direction of the act for the sale of certain islands in the river Susquehanna, is repealed.

The only decided cases which bear upon the foregoing acts, are so connected with laws passed upon another subject, that it is now necessary to bring them into view in this place.

By an act passed 28th of March, 1787, entitled "An act for ascertaining and confirming to certain persons called Connecticut claimants, the lands by them claimed within the county of Luzerne, and for other purposes therein mentioned." (Chap. 1274.) Provision was made for ascertaining and confirming the titles of the Connecticut claimants, and for allowing the Pennsylvania claimants an equivalent, at their option, in the old or new purchase. The 9th section of that act, is as follows: "And whereas the late proprietors, and divers other persons have heretofore acquired titles to parcels of the land aforesaid, agreeably to the laws and usages of Pennsylvania, and who will be deprived thereof by the operation of this act, and as justice requires that compensation be made for the lands of which they shall thus be divested; and as the state is possessed of other lands, in which an equivalent may be rendered to the claimants under Pennsylvania, and as it will be necessary that their claims should be ascertained, by a proper examination. Be it enacted, &c. that all persons having such claims to lands which will be affected by the operation of this act, shall be, and they are hereby required, by themselves, guardians, or other lawful agents, within 12 months from the passing of this act, to present the same to the Board of Property, therein clearly describing those lands, and stating the grounds of their claims, and also adducing the proper proofs, not only of their titles, but of the situations, qualities, and values of the lands so claimed, to enable the Board to judge of the validity of their claims, and of the quantities of vacant lands proper to be granted as equivalents. And for every claim which shall be admitted by said Board, as duly supported, the equivalent by them allowed, may be taken either in the old, or new purchase, at the option of the claimant; and warrants and patents, and all other acts of the public offices relating thereto, shall be performed free of expense. The said Board shall also allow such a quantity of vacant land, to be added to such equivalent, as shall in their judgment be equal to the expenses, which must necessarily be incurred in locating and surveying the same. And that the Board of Property may in every case obtain satisfactory evidence of the quality and value of the land, which shall be claimed as aforesaid, under the proprietary title, they may require the commissioners aforesaid, during their sitting in the said county of Luzerne, to make the necessary inquiries,

by the oaths or affirmations of lawful witnesses, to ascertain those points; and it shall be the duty of the said commissioners to inquire and report accordingly."

This act was suspended by an act passed March 29th, 1788, (chap. 1338,) and repealed 1st of April, 1790, (chap. 1414.) In Vanhorne's lessee vs. Dorrance, in the circuit court of the United States, the confirming act was declared to have been unconstitutional and void. 2 Dallas, 304.

Under these circumstances, an act was passed the 9th of March, 1796, (chap. 1866,) entitled "An act to compensate David Meade, and others." Which after reciting, that David Meade, and sundry other persons, embraced the provisions of the act of 28th of March, 1787, and performed on their part, all the requisites necessary to their obtaining the benefits of the said law, by attending the state commissioners at Wyoming, and procuring their report upon their respective lands, which were lodged with the Board of Property to be acted upon; and it was but just, that the persons complying with the said law, while it was in existence, should be entitled to the benefit of the same; it was enacted, that it shall and may be lawful for the Board of Property, and they are enjoined and required to proceed upon the reports of the commissioners appointed by the act of 28th of March, 1787, which have been filed in the office of the secretary, and ascertain, as nearly as they can, from the documents so placed in the secretary's office, and from such further evidence as they may deem necessary, and which shall be produced to them, what sum or sums ought, on the principles of the aforesaid law, to be allowed to the respective owners, and the Receiver General shall thereupon deliver a certificate of such sum or sums to the respective owners, and enter a credit in his books for the same, which may be transferred to any person, and passed as credit, either in taking out new warrants in any part of the state, where vacant land may be found, or paying arrearages on former grants; Provided nevertheless, that the value of the land, for which such certificates are so to be delivered to the aforesaid claimants, shall not be estimated otherwise, than if the same had been made by the Board of Property immediately after the report of the said commissioners, in pursuance of the said before mentioned law; and the claimants to release their respective claims for which they shall receive compensation.

Lessee of David Meade vs. Frederick Haymaker and Luke Stephens, Allegheny, October, 1800, before Yeates and Smith, justices, (MSS. Reports.)

Ejectment for one message and 400 acres of land, surveyed on a warrant for Henry Meade. The plaintiff claimed under a warrant to H. M. dated 17th of March, 1796, for four hundred acres, north, &c. between the outlet of Little Coneaut lake, and Sandy creek, granted in pursuance of the acts of assembly, passed on the 3d of April, 1792, and 9th of March, 1796.

The warrant was entered with the deputy surveyor of the district on the 28th of May, 1796, and a survey was made thereupon (and seven other warrants) of 401 acres 150 perches by W. Power, on the 15th of August, 1796, who, on the 17th of the same month, received his surveying fees, 70 dollars.

A certificate of the Receiver General was also shown in evidence, dated 7th of October, 1790, that the warrant granted to H. Meade, with 18 other warrants, was paid by certificate No. 1, issued to the lessor of the plaintiff, agreeably to the act of 9th of March, 1796.

It appeared in evidence, that a survey, corresponding in every particular with that claimed by the plaintiff, had been made for the defendant Haymaker, under, and in pursuance of his improvement dated 2d October, 1794. This survey was said to have been made on the 5th of June, 1793, and was returned into the Surveyor General's office on the 16th of January, 1798, with a

note subjoined thereto, that "David Meade claims this survey under his warrant." Haymaker lived both before and since 1795, in Casswago, at a distance from these lands. No proof whatever was given, of his having at any time made any improvement on these lands.

Stevens, the other defendant, had a family on the west branch of the Su-quehanna, under the care of one Jesse Glancey, his step son. He took lodgings in Casswago, and afterwards settled and improved a farm about two and a half miles distant from these lands, and which he now holds as an actual settler. Stevens, to make some compensation to Glancey, began a small improvement for him on the lands in question. On the 23d of May, 1796, he found a cabin erected on the ground, 14 feet square, not covered in; he dressed it for covering, sprouted 30 or 40 stumps, deadened about half an acre, and slept there that night, next morning he cut a tree for clap-boards, cut a door in the cabin, and went in quest of provisions. He came back on the 25th of May, split the clap-boards, covered in the cabin, and slept again there. On the succeeding day he returned to Casswago; and on the 2d of June, he worked three days on the lands in controversy, clearing about half an acre, by grubbing, topping, heaping and burning brush wood, and slept there during that period. In the month following he again worked on the land, and cut logs, poles and brush, in order to sow rye, and planted two quarts of potatoes. Jesse Glancey crossed the Ohio, in the latter end of May, 1797; entered into an agreement with Haymaker, and now cultivates the land.

For defendants, it was contended, that the plaintiff's warrant was not authorized by the acts of 3d of April, 1792, or 9th of March, 1796, or any other law. Running warrants are not recognized by the act of 3d of April, 1792. They cannot operate as notice according to the words of the 4th section, "in order that all persons who may apply for lands, may be duly informed thereof." The 3d section directs, "that every application shall contain a particular description of the lands applied for." But this is not the case as to the present warrant, which calls for no specific spot, but generally for lands between the outlet of Little Coneaut lake, and Sandy creek. The intermediate space between them is a large tract of country. The act of 9th of March, 1796, "to compensate David Meade and others," makes no alteration herein, but puts them on the same footing with other citizens! It barely gives them credit for the sums found due to them, either in taking out new warrants, or paying arrearages on former grants; and they must necessarily be considered as subjected to every other regulation, term and condition imposed by existing laws. The warrant on the face of it, expresses no condition of improvement, building a house, or residence for five years. The survey also, under which the plaintiff's claims has never been returned into the Surveyor General's office, as the law requires. It is a mere transcript of the survey made for Haymaker on the 5th of June, 1795, and it is highly probable that it was not made by the deputy surveyor's going on the ground, after the issuing of the warrant. This is peremptorily required by the act of 8th of April, 1785, and by the 9th section thereof, "every survey theretofore made is accounted clandestine, void, and of no effect whatever." It is not made voidable, but, *ipso facto*, a nullity.

Another ground of defence presents itself, under the act of 22d of April, 1794, no warrant shall issue after the 15th June then next for any lands in the new purchase, except in favour of persons claiming the same by virtue of some settlement and improvement. This law is not to be defeated by implication; and considering its provisions as subsisting, it is evident that the lessor of the plaintiff should have made a settlement and improvement, before his warrant could regularly and legally issue.

Besides, the last clause in the act provides, "that no warrants, except those wherein the land is particularly described, shall affect the title, or claim of any person, having made an actual improvement, before such warrant is entered and surveyed in the deputy surveyor's books." The word "settlement," is omitted. Admitting that none but actual settlements are protected by the act of 3d of April, 1792, still as to warrants issued and located after the 15th of June, 1794, they shall not take place of mere improvements. It cannot be denied, that if the plaintiff's warrant is legal, and describes no certain place, and Stevens had begun an improvement for Glancy, his step son, who may be considered as one of his family, and had slept at least five nights on the land, consequently the plaintiff is not entitled to recover.

By the Court. Several exceptions, plausible in themselves, having been taken against the plaintiff's right, it becomes the duty of the court to examine them minutely. The public are materially interested in the establishment of certain principles regulating the titles of landed property; on the correct application of those principles to the different cases which may occur, the peace and safety of society must depend.

The act of 9th of March, 1795, "to compensate David Meade and others," was grounded on their conformity to the provisions of the law passed on the 28th of March, 1787. "They had performed on their part, all the requisites necessary to their obtaining the benefits of the said law, and it was but just, that the persons complying with the terms of the law aforesaid, while the law was in existence, should be entitled to the benefits of the same." By the 9th section of the former law, the claimants under Pennsylvania rights were to be allowed an equivalent for their claims, either in the old or new purchase, at their option; and, "warrants and patents, and all other acts of the public officers relating thereto, were to be performed free of expense." Possessed of these meritorious claims, they are allowed by the law of 9th of March, 1795, to have a credit in the books of the Receiver General, for the sums justly found due to them, "either in taking out new warrants, in any part of the state, where vacant land might be found, or paying arrearages on former grants." To effectuate the declared intentions of the legislature, and preserve the stipulated public faith inviolate, these persons must necessarily be entitled to new warrants, notwithstanding the general expressions, in the former acts of 22d of April, 1794, or its supplement of 22d of September, 1794, where the lands were not previously improved. No certificates of judges, or justices, were necessary in the case of other citizens applying for warrants for lands north and west of the rivers Ohio and Allegheny, and Conewango creek, and therefore were not to be exacted from this class of public creditors; but every condition of improvement, building a house, and five years residence, and every other regulation, were equally binding on them as others.

But it has been objected, that the warrant of Henry Meade is indicative of any particular place, and wants precision. It is answered, that it is reduced to certainty by the survey. The effect of the loose wording thereof, might have been, that if a subsequent warrant had come to the hands of the deputy surveyor, specially describing a particular spot between the outlet of little Conaut lake and Sandy creek, before a survey had been made on this indeterminate warrant, it would have been postponed thereby. As to the survey not having been returned, it was the fault of the district surveyor, who had received his legal fees, and shall not prejudice the party, in any other case than that of a shifted application or warrant. Such have been our uniform decisions. Every presumption is in favor of a draft of survey, duly certified by the proper officer. It is powerful evidence that a survey was fairly, regularly, and legally made, unless it be rebutted by other proof. The security of landed titles rests greatly on this rule,

and it would be dangerous in the extreme to shake it. No testimony has been adduced to show that the survey was not made by the deputy surveyor going on the ground, and therefore the presumption stands in its favor.

Much reliance has been placed on the last clause of the law of 22d of April, 1794. It is certainly penned very correctly. It might at first be supposed to imply, that warrants particularly descriptive might affect the equitable claims of *previous bona fide improvers* of the same lands; but it will scarcely be contended, that this could have been the real intention of the legislature, considering the different expressions of the public will in a variety of acts, since the revolution. In the preceding part of the section, the words settlement and improvement, seem ranked as synonymous expressions, though the latter word only is inserted in the close of the law. In fact, an improvement, as defined by the act of 30th of December, 1786, has the same meaning as an actual settlement under the act of 3d of April, 1792, except that the latter points out precisely the extent of it, by clearing two acres for each 100, erecting a message, and residing thereon five years. The former law describes an improvement "as an actual personal resident settlement, with a manifest intention of making it a place of abode, and continued from time to time, &c." We are however of opinion, that if a doubt could be supposed to arise under the expressions of the act of the 22d of April, 1794, they are removed by the supplement thereto, passed at the next sessions, on the 22d of September, which, in several instances, alters and supercedes the provisions of the first act, and secures settlements and improvements made under the law passed 3d of April, 1792.

How then stand the pretensions of either of the defendants? Though Haymaker had a survey made for him, he had no settlement whereon to ground it; and therefore it is a mere nullity, and gives no right whatever. Stevens began to make what is styled an improvement, three days before the plaintiff's warrant was entered with the district surveyor, but he had an actual settlement two and a half miles distant, whereon he resided, and which he now holds as an actual settler. He could not have two resident settlements, two homes at the same moment. If he could secure the title of more than one place by actual settlement, wealthy men might do the same thing to any extent, and the poor would be thus prevented from all means of obtaining land, which could never have been intended.

Glancy can derive no claim under either Haymaker or Stevens. He himself did not cross the Ohio, until the latter end of 1797, more than nine months after the survey.

On the whole, therefore, the result is, that the plaintiff has the only right recognized by the law, and we are clearly of opinion he is entitled to recover. Verdict for the plaintiff.

(To be continued.)

From the U. S. Gazette.

#### ANTHRACITE COAL GRATE.

Every improvement in the construction of stoves or grates calculated to bring anthracite into universal use, particularly as applicable to culinary purposes, is an object of interest. We have been gratified within a few days past, with a view of a new grate, which must be considered a decided improvement, and as such we take pleasure in calling the attention of our readers to the subject.

The grate, which we have examined, differs in the principle of its operation from those in general use, by its draft. Instead of being elevated in the customary manner, the grate is set in the hearth, on a level with its surface, and communicating with the ash hole below, from which, immediately under the arch, a single

brick is removed for the admission of the air. Through this aperture alone a sufficient draft is acquired to keep the coal in a state of ignition. The cooking is done after the manner of the old-fashioned wood fires, the boiling utensils being suspended over the fire in the usual way, and the roasting either by suspending before it, or in the common tin kitchen, while the baking, &c. is done in a very light convenient tin oven, placed before the fire.

There is no dust arising from the coal, all falling into the ash hole beneath; the grate is remarkably simple in its construction, and, we are assured, can be put up at an expense that will place it within the reach of every one, the whole cost for a grate of sufficient dimensions to cook for a family of fifteen or twenty, not exceeding ten dollars.

This improvement originated in Boston. One of the grates has been up in the kitchen of a gentleman of this city for several weeks, and actual experience has realized the anticipations that had been formed of it. Several of our friends who have seen the operation of it, are about having them put up in their kitchens; and it will go hard with us, but our Christmas turkey gets its roasting before one of them.

We think this grate must unquestionably have the tendency of bringing coal into universal use among housekeepers in all our cities and towns, and promote the demand for this great staple of our state to an incalculable extent.

They will soon be for sale, we presume, by all our stove and grate makers; at present, they can be had of Mr. Morris, corner of Walnut and Third street.

POTTSVILLE, Aug. 23, 1834.

**SCHUYLKILL NAVIGATION.**—The water in the Canal is at present lower than it has been for several years past, the consequence of which is a great detention to canal boats, which will materially check the transportation of coal. We learn that a large number of boats are now detained at Moyer's dam, near Reading, owing to a scarcity of water.

COMMERCE OF PHILADELPHIA.

Abstract exhibiting the number of Vessels, Tonnage, and number of men and boys employed, in the District of Philadelphia in Foreign trade, from the 1st January, 1834, to 31st March, 1834, inclusive.

	No. of Tons.	No. of vessels	Men	Boys.
Tonnage of American ves- sels entered.....	12,136	58	526	61
Do. Foreign do. do.....	1,066	8	61	6
Do. American do. cleared.	5,927	37	296	25
Do. Foreign do. do.	1,215	9	65	7
	20,344	112	948	99

Abstract exhibiting the number of Vessels, Tonnage, and number of men and boys employed, in the District of Philadelphia, in Foreign trade, from the 1st April, 1834, to the 30th June, 1834, inclusive.

	No. of Tons.	No. of vessels	Men.	Boys.
Tonnage of American ves- sels entered.....	18,729	99	828	81
Do. Foreign do. do.....	8,588	39	374	42
Do. American do. cleared	14,989	84	677	76
Do Foreign do. do.	4,834	28	236	20
	47,140	250	2115	219

POTTSVILLE Aug. 23, 1834.

**LIMESTONE.**—The Poor House Farm in this neighborhood contains a body of Limestone, heretofore

thought to be of little value, which by a recent experiment has been proved to be of an excellent quality. A single kiln has been burnt, and the lime procured therefrom is found to be equal to any in the country. This discovery will doubtless very much enhance the value of the tract in question, and be of vast benefit to the surrounding country.

**DEATH BY LIGHTNING.**—At Mechanicsburg, Pa. a most awful scene, the effect of a stroke of lightning, was lately exhibited at the house of Mr. Poorman of that village. It appears the family were sitting together in a room, when the house was struck, and a part of the fluid entered the room, struck his daughter, aged 22, and a son about 17, and deprived them instantly of life. They were sitting very near each other when struck, and so immediate was their death, that they moved not from their seats, but retained their positions in their chairs, the head of the young man reclining on the shoulder of the sister. The unfortunate event had cast a gloom over the whole village. The bodies were interred in one grave, and were followed by a number whose countenances spoke their sorrow.

From the Pittsburg Gazette.

REMARKABLE CIRCUMSTANCE.

Mr. Montgomery, the jailor of the county, handed us the following communication, which he says was written by one of the prisoners. The filling of the stones and muscles he assures us, witnessed by many, perhaps all the prisoners, some of whom are in confinement for debt, others charged with crimes. He, himself, was in the country on that evening, but he declares he has no doubt of the truth of the story. He says that he picked up muscles on the next morning.

On Saturday evening, the 9th instant, about five o'clock, the south-western hemisphere, became suddenly overspread by heavy dark clouds, which indicated the fast approach of a storm, which was carried swiftly along by the angry wind, which smote the earth as though the very elements were at war with each other—soon the water began to gush from its cistern. During the extreme part of the rain, some of the prisoners in jail observed something falling resembling the small stones that may be seen on the beach of a river—What first attracted attention was the rattling upon the bricks in the yard. When the storm had subsided, the prisoners were not a little astonished as well as delighted, at finding that, not only the inactive stones were to be found, but that numbers of living muscles, had been removed from their native element, and were ready for gathering within the jail walls—the number found is not accurately known, as some went immediately to work on the fresh dainty, opening, salting, and swallowing—until they were consumed; one person, however picked up ten before the others were informed that the yard abounded with fresh muscles—some of them, from appearance, must have weighed two ounces; there were also several round stones found, one of which would weigh four or five ounces, and which may yet be seen—on the same evening, there were some frogs taken captive, whilst hopping about, apparently rather dissatisfied in finding themselves confined within the jail wall—the ancients cannot recollect of such visitors making their appearance within the walls before.

Mr. Montgomery (keeper of the prison) found some of the muscles outside of the wall. It is requested that some of the learned would cast some light upon this mystery, and solve to us how these emigrants left their watery home, sailed into the air, and landed inside the jail walls.

An Inquirer after Knowledge.

From Moore's Philadelphia Price Current.

# PENNSYLVANIA IMPROVEMENTS.

There is no subject of such prominent interest with Philadelphians, we might also say with Pennsylvanians, as the completion of the route from this city to Pittsburg. A few facts will place the topic in a strong light; we may here, by way of remark, suggest that the public prints make much less of the matter than its vital importance demands. Had similar commercial prospects opened to either New York or Baltimore, they would have made such a noise as would have alarmed their quiet neighbors! Only last year the papers of New York boasted in capital letters, that goods had been transported from that city to Cincinnati, via Albany and the canal for the trifling sum of TWO DOLLARS and THIRTY CENTS; we give it in capitals, for the whole benefit of the boast shall be prominently repeated; they then thought competition was out of the question—our canal was a humbug, the portage was a *drawback* not to be got over, and the state was so heavily in debt that the tolls would forbid the vast improvement to be used! What are the facts? goods are now delivered from Philadelphia at Cincinnati, for ONE DOLLAR and THIRTY CENTS!!! We place this in capitals also that there may be no misunderstanding. The fact is as here stated. Facts are stubborn things; we shall enumerate a few more. Cotton has been brought from Alabama, via the Pennsylvania canal, and delivered in Philadelphia at a less cost than it could be sent via New Orleans! and with these additional advantages, that it requires no insurance, and was not necessarily passed through the hands of a commission merchant, at New Orleans.

It arrived too at period agreed on, when the merchant could be on the spot, and if so disposed, could vend it without the interposition of a third party, whom like his Orleans factor, he would have been compelled to trust. His own opinion was, that he had saved in freight, saved in time, saved in commission, and saved in risks. Tobacco from Kentucky has been similarly transported and the experience of the owners is nearly the same.

Merchandize is now constantly arriving at our wharves, by transportation lines, to go to the west, from New York and from Baltimore, one hundred bags of salt petre were recently transhipped from a New York brig, in the Schuylkill to our Pennsylvania canal boats destined for Cincinnati! What then has become of the boasted cheapness of the New York State route? We answer and the facts bear us out, that the Pennsylvania improvements are rapidly superseding those from Albany, and that another season must see all the course of western transportation centered in our canals. Nothing can now prevent our onward march. We shall as certainly take the lead, as that New York has so long retained it, if for no better reason, because the saving of time from a New York wharf to Cincinnati, is more than one half by sending through Philadelphia, leaving the question of cheapness and earlier and later facilities in spring and fall entirely out of the question.

Philadelphia has been long in laying and perfecting her plans, but it is no vain boast to say that she has laid them like a wise merchant, who makes all his calculations before he sends his ship to sea—enquires all the port charges his captain will have to encounter, sails his ships economically, and knows the extent of the Market to which he is going to furnish supplies. Philadelphia has not been an unconcerned spectator of the prosperity of New York, but she laid her schemes so that there should be no Albany to share her success; she dug a deep canal to the Chesapeake, constructed a rail road to the same, and opened a navigable channel to the Raritan; thus putting out all her feelers while the long but easy channel to Pittsburg was preparing to digest the food thus to be brought to her maw. This may be a homely figure; but it is a true one, and illustrates forcibly our present position. Another fact—the tolls on the Union Canal, a work now of the ut-

most importance to our trade; have been for the last few weeks, twice as great as they were during a similar term last year, when they had greatly improved on former returns.

Such are a few realities; what their effects is to be on the future prosperity of Philadelphia, it does not require a prophet to foresee, our fair city is about to commence a career of prosperity, in spite of the times, to which there has heretofore been no parallel in the history of our country. Her streets are full of intelligent merchants whose character stands high every where, and most prominently so in the west. The buyers from the valley of the Mississippi left our warehouses with reluctance, because the circumstance of cheaper transportation compelled it; but we are now doubly sure of them by the force of inclination and interest. We are not sanguine, nor are we apt to be run away with by new things; but reflection on the circumstances above suggested will bear us out in even brighter visions than we have indulged in. We fear no rail road from Baltimore to the Ohio; if they make one all the way, they cannot compete with us in cheapness. Let us then be indulged in telling the world the comforts of our new position, and if any in other towns should feel envious let them remember we have earned our present distinction through a long period of probation and trial.

From the Franklin Intelligencer.

A NEW MARKET.—We are highly pleased to learn by our industrious fellow-citizen, B. A. Plumer, Esq., who is at present blowing the Oil Creek Furnace, that he has this season vendued a considerable quantity of scrap and pig metal to the Messrs. Groves, iron founders, at Olean, near the head waters of the Allegheny river, in the state of New York, for which he received better prices at his works, than he has in the Pittsburg market; and that those gentlemen assured him, that it was a saving in price to them on the ton, and more than double on the freight. They had been accustomed to lay in their stock at Buffalo, at thirty dollars per ton, and then transport it about seventy miles by land carriage, over bad roads, which would incur double the expense of twice the distance on the river, in its natural channel. We hope our enterprising neighbors in the state of New York will advance their interests further and more extensively by the same kind of traffic. Our iron ore and coal are inexhaustible. We can supply, from this county alone, the demands of the whole empire state, in both the great staple commodities. And while we are on the subject, we will just moot the great and all important enterprise, the improvement of the Allegheny river. There is another great and primary enterprise going on in the State of New York, in which we shall ever take a deep interest, as it will link with the Allegheny at Olean;—we mean the contemplated canal from Rochester to that place, up the valley of the Genessee river.

PATENT FERRY.—The Kittanning Gazette says,—“Mr. Cunningham opposite this borough, has got his ferry boat to work upon a new plan. About 400 yards above the landing at his house, a strong wire is attached to a tree that stands close to the bank of the river; the other end of the wire is attached to the boat by means of stay ropes, with which it can be brought to any desired angle with the current. By bringing the end of the boat that is intended to go foremost a little up the stream, it immediately sets off like a thing of life, impelled solely by the oblique action of the water upon the side of the boat. In this manner the trip is performed, from that shore to this in about five minutes, and from this shore to that in about three minutes. It is a very ingenious contrivance, and was constructed by the patentee.”

**THE CANAL.**—To men of enterprise we should say that a fair opportunity presents to enter on a lucrative business on the Canal. By the Rail Road from Philadelphia to Columbia, and thence by water, we suppose it cannot be questioned that goods can be brought from the city considerably cheaper than by waggons. By the Union and Schuylkill Canals a water communication being opened to the wharves at Philadelphia, it would seem almost certain that a line of packet-boats might be made profitable. Besides the merchandise to be taken each way, we should suppose that the numerous passengers would aid to support the undertaking? It is said that the line of packet boats from Columbia to Northumberland made several thousand dollars the last spring, by bringing up Raftmen.

Lime in the lower part of Columbia county, at the kilns can be had, we are told, for from 10 to 12½ cents a bushel. At Wilkes-Barre the article sells for from 30 to 37½ a bushel. If the price was reduced to its just value here, say 15 or 16 cents, it would be a profitable manure for lands, and many thousand bushels would be consumed for that purpose. The better kinds of lumber, pannel stuff—cherry—curled maple for veneering and bedstead stuff—chair rounds—white-wood for coach pannels, and other sorts, it would pay for transportation. Bark for Tanners, and the Quercitron, for exportation, in our opinion would afford a certain profit. All that is wanting is, that some one or two spirited individuals should take the lead, and a line of packet boats might be running this fall.—*Evening Herald.*

#### COLLECTOR'S OFFICE, Aug. 11, 1834.

Statement of tolls received upon the Columbia and Philadelphia Rail Way, at the Collector's Office, Philadelphia, from April 1st to 8th August, inclusive:

May 9	Receipts to this date,	746 20
16	do. for the week ending this day,	432 63½
23	do. do. do.	59 13½
30	do. do. do.	123 97½
June 6	do. do. do.	320 87½
13	do. do. do.	1101 89½
20	do. do. do.	521 80
27	do. do. do.	683 66
July 4	do. do. do.	760 09
12	do. do. do.	809 95½
19	do. do. do.	1476 19½
26	do. do. do.	846 30
Aug. 1	do. do. do.	935 17
8	do. do. do.	2145 20

Total. \$10,965 00  
JOHN S. CASII, Collector.

#### RIOTINGS.

The Columbia (Lancaster county) Spy, gives the following account of riots in that borough—

"On Saturday, Sunday and Monday evening last, the first outbreaks of a riotous disposition were exhibited, and the windows of the houses of several of the coloured people were broken, partly on account of their own imprudence, and partly through the prevalent spirit of jealousy and animosity which pervades the country respecting that class of the population.—On Tuesday night, however, the disorder broke out more violently, the passions of the persons who took part in the mob, and who generally consisted of minors with some older but not more reflecting heads among them, having been fired by a disturbance in the early part of the evening, represented by some as an attack, by the blacks, on a white man going to watch a lot on the outskirts of the town, and by others as a defence of their property when assailed by violence. A band of persons, consisting in all of not more than fifty, then collected, and marched to that part of the borough generally occupied by the coloured population, attacked and injured a number of the houses with stones, disturbed the quiet of the place by shouting, and fired off guns occasionally though without any serious result.

The mob dispersed early, and the citizens, on Wednesday, assembled in town meeting, and made some additions to the police; and pledged themselves to sustain the peace of the city,

#### NOTICE—GIRARD BANK.

PHILADELPHIA, Aug. 25, 1834.

At a meeting of the Board of Directors held this day the following Preamble and Resolutions were adopted.

WHEREAS, Stockholders in the Girard Bank, representing more than one half of the capital stock thereof, did, in the month of March last, instruct the Board of Directors, "to restore to the proper authority the money and deposits of the United States, in their possession, as soon as the same could be effected, consistently with the convenience and safety of the Institution; and that the said bank should thenceforth cease to be the repository of the monies aforesaid."

And whereas, in consequence of this action of the Stockholders, an arrangement was made with the Secretary of the Treasury, by which the contract then existing between this Bank and the United States, was annulled, and the whole balance of the public funds placed at the immediate disposal of the said Secretary, on the first day of July last, of which due notice was given.

And whereas, since that period no contract has existed between this Bank, and the Government, the Board having carried into effect, so far as depended upon them, the instructions of the Stockholders.

And whereas, a majority of the whole stock of this Bank, including the major part of the stock which was signed to the Resolutions of the 17th of March last, (and nearly two-thirds of such portion of said stock as remains in the hands of the same owners,) has been subsequently signed by the proprietors in person, or by attorney, to a request addressed to the directors that the Bank should resume the transaction of the public business, "if the same could be obtained on such terms as the Board might deem expedient, and advantageous to the interests of the institution."

And whereas, this Board did, in cancelling the former contract, act in accordance with the views expressed by the owners, or their representatives, of a majority of the stock:

And whereas, the present instructions, emanating as they do from a still larger majority, claim, in the opinion of the Board, equal respect:

And whereas, the Board have, in consequence of such instructions, made a new arrangement with the Secretary of the Treasury, such as "they deem expedient, and believe will be advantageous to the interests of this institution;"

And whereas, it is due to themselves, in order to prevent all misconception, or unintentional misrepresentation of their conduct and motives, to promulgate the recent proceedings of their stockholders, which, having taken place unaccompanied by any incident, attracting general attention, might else remain unknown to the public;—and also, to make an explicit avowal of the course which they (the Board) have pursued in reference to the same, which is especially requisite in the present case, because of the great publicity given to the former proceedings, both of the Stockholders and the Board; therefore,

Resolved, 1, That public notice be given that the *Girard Bank*, in the city of Philadelphia, has resumed the transaction of the public business, as a fiscal agent, under a contract with the Secretary of the Treasury of the United States, made and entered into on the eighteenth day of the present month.

Resolved, 2, That the foregoing preamble and resolution, attested by the Cashier, be inserted in two or more of the daily papers of this city.

A true copy from the minutes.

WM. D. LEWIS, Cashier.

## METEOROLOGICAL REGISTER.

*Extract from the Meteorological Register, taken at the State Capitol—Harrisburg, Pennsylvania,*

By JAMES WRIGHT, Librarian.

MARCH, 1834.

Days of the Month	Days of Week.	Morning temperature.	Noon temperature.	Even. temperature	Mean temp. of day	Morning height.	Noon height.	Evening height.	Mean height.	Winds.	State of the Weather.
Thermometer.						Barometer.					
1 Saturday	34	48	49	44	29.53	29.53	29.51	29.56	SW		Clear day,
2 Sunday	40	48	46	45	49	50	56	52	NW		Cloudy day,
3 Monday	24	29	35	29	30.00	30.03	30.00	30.00	W		do. do.
4 Tuesday	31	47	54	44	29.95	29.90	29.88	29.91	W		do. do.
5 Wednesday	37	53	56	49	86	86	83	84	SW		Smoky day,
6 Thursday	49	57	59	55	78	80	89	79	SW		Flying clouds—Clear,
7 Friday	45	57	57	53	30.04	30.02	30.02	30.03	SE		Clear,—Cloudy,
8 Saturday	60	67	59	62	29.66	29.66	29.66	29.66	W		Cloudy, show. clr. high wi.
9 Sunday	36	50	46	44	30.05	30.15	30.25	30.15	N		Clear day—Blustering,
10 Monday	32	40	44	39	37	33	21	30	SW		do. do.
11 Tuesday	44	49	52	48	30.00	29.88	29.81	29.93	E		Cloudy day,
12 Wednesday	50	56	50	52	29.76	74	70	73	W		Cloudy,—Clear, Bluster.
13 Thursday	37	45	50	44	30.00	30.00	30.00	30.00	NW		Clear day,
14 Friday	38	47	42	42	29.91	29.80	29.77	29.83	SE		Cloudy,—light rain,
15 Saturday	40	46	46	44	73	73	76	74	N		Cloudy day,
16 Sunday	41	48	47	45	90	90	90	90	SE		do. do.
17 Monday	47	53	57	52	90	93	93	92	SE		Cloudy,—Clear,
18 Tuesday	42	58	62	54	30.00	30.00	29.93	29.98	SE		Clear,—Cloudy,
19 Wednesday	55	68	68	64	29.82	29.78	77	29.79	SW		Clear,—Rain,
20 Thursday	61	70	72	68	75	65	65	68	S		Flying clouds,
21 Friday	34	37	36	36	75	75	75	75	NW		Clear,—Cloudy, Blust'g,
22 Saturday	23	30	36	30	90	90	90	90	NW		Clear day, do.
23 Sunday	35	43	46	41	83	79	66	73	E		Cloudy day,
24 Monday	42	48	48	46	65	65	65	65	W		Cloudy,—Clear,
25 Tuesday	38	40	41	40	66	55	55	59	E		Snow and drizzling rain,
26 Wednesday	33	40	43	39	87	87	87	87	NW		Clear,—Cloudy,
27 Thursday	36	49	54	46	30.00	30.00	30.00	30.00	W		Sun & cloudy—Clear,
28 Friday	42	56	60	53	29.95	29.95	29.90	29.92	S		Clear day,
29 Saturday	48	60	50	53	71	66	66	68	NW		Clear,—Cloudy, Blust'g
30 Sunday	29	48	44	40	86	86	86	86	NW		Clear day,
31 Monday	33	46	52	44	30.02	30.02	30.02	30.02	S		Clear—Cloudy, rain at ni

## Thermometer.

Maximum on the 20th,	-	-	-	68°
Minimum on the 3d,	-	-	-	29°
Difference,	-	-	-	39°
Mean,	-	-	-	46½°

## Barometer.

Maximum on the 9th,	-	-	30.30 inches.
Minimum on the 2d,	-	-	29.52 "
Difference,	-	-	00.78 "
Mean height,	-	-	29.86 "

From the Minor's Journal

## ANTHRACITE FOR STEAM ENGINES.

The North American Company have an Engine of 15 horse power, for the purpose of freeing their Centreville mine of water and hoisting up the coal, which they are now raising from below the water level. The shaft is now 110 feet deep, and the engine is worked about 5 hours in the 24 for pumping out the water—the residue chiefly occupied in hoisting Coal. The fuel which they use altogether is their small or nut coal, such as could be had in Philadelphia at about \$3 per ton. The Engineer has been employed fifteen years in England, where he used the Bituminous Coal, and he gives a decided preference to this Anthracite, saying that it keeps up the steam more regularly than the English Coal, preserving a constant uniform heat, whilst the latter, partaking of the nature of wood fuel, sinks when not under blast, and loses time by the

more repeated feeding of the furnace. It is a matter of surprise that our Steamboats, particularly on the Delaware, have not long since used our Anthracite. Were any intelligent proprietor of steamboats to come and view the operation of this engine, so regular and economical, I think conviction of the advantage of this fuel would follow necessarily. The pump makes 40 strokes per minute, and delivers 440 gallons of water in that time, raised 100 feet perpendicular. The engine consumes about two tons of coal per day.

August 21. 1834.

N.

The quantity of rain that fell in York and its vicinity from the 1st to the 31st of July, amounted to 2.94 inches (not quite 3 inches.) In the same month of last year, 1833, there fell 14.5 inches (14½ inches.) From this it may easily be perceived that our corn crops will not be what they were last year.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 10. PHILADELPHIA, SEPTEMBER 6, 1834. NO. 341.

## INSTRUCTION OF THE BLIND.

*Address, to the Benevolent Citizens of Chester County.*

Fifty years ago, the first institution for the instruction of the blind was established in Paris, by the Abbe Huay, who as a philanthropist had no superior. Since that period a number of eminent schools have been instituted in various parts of Europe. England has three seminaries of this kind, all of which are in successful operation, diffusing their benefits to that class of her unfortunate population, whose miseries they are intended to alleviate. Our own country has but recently availed itself of the blessings which similar institutions afford, and now, we are able to number three—one at Boston, established more than two years ago, under the superintendence of Dr. How; another at New York, about the same time; and a third at Philadelphia under the direction and management of Mr. Friedlander. The two first mentioned schools have been liberally endowed by the Legislatures of their respective States, which circumstance, together with the aid received from private munificence, has placed them on a permanent and useful foundation.

"*The Pennsylvania Institution for the Instruction of the Blind*," which is located in Philadelphia, was established on the 25th of March. Mr. Friedlander, a gentleman regularly educated and eminently qualified for this object, having left his native country with a view to the instruction of these particular subjects of misfortune, arrived in that city a short time prior to that period, and communicated his wishes to some philanthropic citizens, who immediately took measures to aid him in laying the basis of the present institution. He began with four pupils, and depending for its support upon the liberality and benevolence of a few individuals who had manifested a deep interest in the undertaking, together with his own resources, their number has increased to fifteen.

At the commencement of the last session of the General Assembly, an application was made by the managers of the Institution, for an act of incorporation, and such pecuniary assistance, as that body might deem it requisite to afford. In order to illustrate the practicability of educating the blind, and remove any doubts that might exist on this subject in the minds of the representatives, an exhibition of the pupils was given in the Hall of the House of Representatives, which was followed by a liberal endowment by the Legislature. Ten thousand dollars were appropriated to liquidate a small debt under which the institution was laboring, and to aid in placing it on a more extended scale of usefulness. Ten thousand dollars were also appropriated towards the erection of suitable buildings for the accommodation of the pupils, upon condition, that double that amount should be procured by voluntary subscription. And it was further enacted that the sum of nine thousand dollars might be drawn from the public funds, for the education of indigent blind children in the state, at a price not exceeding \$160 per annum for each pupil, and no scholar to receive the benefit of this provision longer than six years. The privilege granted in this cause continues for a term of six years only.

It will be perceived that \$20,000 must be obtained by private contributions before any money can be drawn from the State towards the erection of buildings, and unless these subscriptions are made within two years from the passage of the act, the state is freed from the obligation imposed by this provision. About one-third of the amount has been already procured, principally in the city of Philadelphia. Four individuals in that city have contributed \$1000 each, and \$1000 was raised by the citizens of Lancaster.

Chester county will also, we trust, contribute her share in the establishment of this humane institution.— Out of 503 blind persons in the State of Pennsylvania, our county contains 27, a number exceeding the ratio proportionate to her population. Something then is certainly due from her in aid of this highly benevolent enterprise to ameliorate the condition of her sightless children. That the blind can be taught reading, writing, ciphering and music as well as manual labor, which they can turn to a profitable account, there can be no doubt. The exhibitions which have been given by Mr. Friedlander, of the skill and acquirements of his pupils, have never failed to convince the most sceptical upon this subject, and elicit a deep feeling of admiration for the usefulness of such institutions.

The claims of the Pennsylvania Institution for the instruction of the blind may be urged upon the attention of all who can feel a spark of sympathy for that class of unfortunate fellow beings whom Providence in the dispensation of his favors, has been pleased to deny one of the greatest blessings we enjoy in this life. Who can contemplate these children of misfortune pining away in despondency and gloom, without one ray of light to irradiate their dark and benighted minds, and not feel that it is his duty to endeavor to afford relief? In vain may we contribute money for their support, while they are left in ignorance to grieve over their sad and neglected condition. This exercise of charity and benevolence is indeed a feeble consolation to the keen sense of misery and despair, which occupies their souls. The human mind is never satisfied to dwell amidst the light reflected by civilization and learning, without partaking of the enjoyments they afford. And although the blind cannot feast their eyes with the beauties which surround them, and contemplate with delight the enchanting scenes of creation, nor behold the smiling countenances of parental affection, yet, they are now enabled to drink from the rich stream of pleasure, which education offers to them—and instead of sitting down in silence and despair, their minds may be illuminated by the light of revelation and truth.— They can exchange their condition of dependence upon charity, for one of utility and happiness—they can learn the way to heaven by a perusal of the sacred volume—a new existence is given to them, and with a deep sense of gratitude do they acknowledge the obligation on they are under to those, who have contributed to their amelioration.

Shall Chester county be appealed to in vain in behalf of these children of misfortune? Shall it be said that she has lost her high reputation for benevolence which has hitherto distinguished her? While individuals abroad are sustaining this institution by a laudable munificence, can we not do something worthy the object

in view? Small contributions by each one according to his means, will amount to a large sum, and aid to render permanently useful, one of the most important institutions which have been established. Let then the friends of humanity and benevolence throughout the country—consider the amount of good even a small pittance may afford, and contribute their mite towards redeeming the unfortunate blind from a state of wretchedness—removing the veil of darkness which obscures their intellectual powers, and placing them in a more elevated rank of human felicity.

From the Pittsburgh Gazette.

### THE PENNSYLVANIA CANAL.

By the last *Wheeling Times*, we perceive that the *Baltimore Gazette* has propounded some important questions in relation to our great state improvements. To those questions, the editor of the *Times* has kindly volunteered to reply.

A more extraordinary tissue of misstatements than is contained in this reply, we have never read. From a hasty perusal of it, we incline to think that there is no one assertion or matter of opinion contained in it, which is correct. We intend, however, to notice it fully, and if, in examining it, we happen to find any one assertion or opinion which is well founded, we will give our neighbor credit for it. We do not accuse that editor of wilful misrepresentation, but we do think that he has acted unwisely in writing upon matters of which he is utterly ignorant.

The following is a portion of the reply:—

"The usual time for closing of the canals by ice is the 10th of November, and the 1st of April for their opening—nearly five months."

The first assertion, that our canal *usually* becomes closed by ice about the 10th of November, and continues so until the 1st of April, is entirely incorrect. The truth is, that so far from the canal being *usually* closed by ice on the 10th of November and continuing so until the 1st of April, it has never so happened since the canal was opened, and probably never will happen. The editor of the *Gazette*, at *Wheeling*, gives a little more time—he extends it to about the 1st of December, and fixes the commencement of navigation at about the 22d of March. This latter editor also admits that it may happen that the canal may not be closed at all, by ice, and adds—"as would have been the case in 1827-8." The canal has been in operation so short a time, that it is not possible to say at what time it will usually close—but we can say that tolls were taken *during every month of the winter of 1832-3*, and the same would have been the case during the last winter, if the commissioners had not ordered the water to be drawn off to make some improvements upon the aqueduct across the Allegheny at the mouth of the Kiskiminetas. We have not had leisure to ascertain when this order was given, but, upon turning to our file, we find a letter from the Superintendent, dated at Bills' Dam, on the 18th of January, 1834, which mentions that the great fresh in the Kiskiminetas had carried away a part of Bills' Dam, and adds that he expects to have it repaired by the 1st of March, without, in the mean time, interrupting the navigation. So that, in 1834, the navigation was certainly not interrupted by ice prior to the 18th of January.

We have, then, the experience of two winters in one of which the canal was open a portion of every month—in the other, it was certainly open every month but February, and might have been opened before the 20th of that month, had the improvements on the aqueduct been completed. These improvements, however, delayed the opening of the canal until the 10th of March.

Although we cannot undertake to fix a time when the canal will usually be closed by ice, yet we can say

that it will not be closed twice in twenty years before the 10th of December—nor will it, twice in twenty years, be closed after the 20th of February.

The editor next proceeds to notice the supply of water as follows:

From Pine Creek, five miles from Pittsburgh, to the mouth of the Kiskiminetas, a distance of 30 miles, the canal, in dry seasons, will always be liable to the interruptions from deficiency of water, which can be supplied *only by the use of steam power, in raising water into the canal*,—this interruption, if it can thus be remedied must be done at great expense,—the duration of this difficulty, each year, must depend on the character of the season, whether wet or dry—it will be most likely to occur at a period of the year most important to the trade between the east and the west—in the latter part of summer and the early part of fall, when a large portion of the fall goods are transported to the west."

As we understand the first sentence of this extract, the editor makes the distance from this city to the mouth of Kiskiminetas 35 miles—this is an error but it is a small matter. The remark that the scarcity of water is most likely to occur between Pine Creek and the Kiskiminetas is not well founded. If such scarcity should ever occur, it will be first felt between this city and Pine Creek, because the business will be more considerable, and because that portion is farthest removed from the supply of water, and of course more exposed to leakage and evaporation. But there is no danger of any such scarcity of water for many years to come. The rivers are now very low—considerable business is doing—and yet the canal has as much water as is desirable—indeed, it is as full as it was in April or May.

The canal commissioners, however, foreseeing that the time may come when a sufficient supply of water cannot be kept up by the present means, have recommended a measure which will not only ensure an abundant supply, but make a valuable addition to our improvements. They do not, however, recommend a steam engine, which the *Wheeling* editor declares is the only means of supplying water, but the extension of a navigable feeder from the mouth of the Kiskiminetas, fifteen miles up the Allegheny, with a dam, by which water enough for ten canals can be supplied.—This feeder will no doubt be constructed at some early period, but it will be many years before it will be necessary as a means of supplying water.

The next extract is as follows:

"The route between Philadelphia and Pittsburgh, is mostly through narrow valleys confined by precipitous mountains, these expensive improvements, therefore, unlike the New York canal, receive but little support, from the adjacent country,—they were designed to connect the metropolis of the state in the east with the flourishing city of Pittsburgh in the west, and thus to secure a large portion of the trade of the "far west" without reference to the improvement of the interior of the state."

Now, if it were true that these canals will derive "but little support from the adjacent country," it would be rather a recommendation than otherwise of this route to distant freighters, but this statement is as unsound as the rest. The adjacent country does already furnish much support to the canals, and will hereafter furnish much more. The main trunk of the canal, without reference to the branches, passes through the whole length of the Juniata Iron country, and of the region of the Salt Works on the Kiskiminetas and Conemaugh. It also reaches the bituminous coal mines at Holidaysburg. Already has salt been sent from the Conemaugh to Harrisburg, and coal from Holidaysburg eastward. So that although the country along the canal is not remarkably rich in agricultural products, yet it abounds in minerals which are always the best sources of income for canals.

In another *Wheeling* paper, an attempt is made to

show that the route by the Cumberland road from Wheeling to Baltimore is preferable to the Pennsylvania canal. The following extract from the same article, will be a sufficient reply to all such logic—we will give this extract without other comment, than to say that the conjecture about the quantity of bacon and lard is vastly below the mark.

“We can obtain information from no one here as to the quantity of flour and grain forwarded from Pittsburgh to Philadelphia, nor of the precise quantity of any other article of western growth or manufacture; but the quantity of tobacco sent from this place to Baltimore, by Pittsburgh and the Pennsylvania Canal, this season, is estimated at 2,500 hogshead, and the quantity of *bacon and lard*, shipped from, or that have passed by this place, to be conveyed by the same route to Philadelphia and Baltimore, is set down by conjecture at 1,500,000 lbs.”

### THE POLES.

To the Citizens of the City and County of Philadelphia.

The committee appointed by a town meeting, held on the 30th of April last, to devise means for relieving the unfortunate Polish Exiles, beg leave to

#### REPORT,

That, having brought their operations to a close, they deem it a duty to lay before the public, a statement of the course of their proceedings, the means which have been placed at their disposal, and the objects to which they have been applied.

As soon as the organization of the committee, the appointment of agents to take up collections, and other preliminary measures would allow, they opened a correspondence with the New York Committee, which resulted in an agreement on our part, to receive under our protection twenty-five of the Polish exiles, for whom a temporary support was provided, until they should be able to obtain employment, or be otherwise disposed of according to their respective wishes and circumstances. On their arrival, they were placed in private houses, where they could be furnished with plain fare, and be made acquainted with the habits of sober, industrious, and orderly American families: and the committee would express their satisfaction, that those who have undertaken to entertain these homeless strangers, have in general, conducted towards them in a manner which merits entire approbation.

Next to their necessity of bodily sustenance, and that of decent apparel (which their long exile and many months imprisonment, on shipboard as well as on land, had almost exhausted,) was that of a *medium of communication* with our citizens. The committee accordingly took early measures for instructing them in the elements of our language. To Mr. F. Schrader, whose services were obtained for this purpose, they are under obligations for the assiduous and faithful discharge of his duties. Under his care those of the Poles who were diligent in study, and constant in their attendance, have made such proficiency as to place them entirely beyond the probability of suffering from any want of power to make known their necessities.

In conformity with the statements contained in their “appeal” to the public, when soliciting aid for the objects of their care, the committee have constantly directed their efforts to measures which might place the Poles above the necessity of a reliance on charity, and to inquiries which might lead to their establishment in useful and industrious habits. With this view, correspondences were opened, and persons engaged to make diligent inquiries for places of employment, for such as were capable of immediately obtaining their own subsistence. We regret that the depressed state of business in every quarter to which our attention was di-

rected, rendered it impracticable, with few exceptions, to obtain situations in which they could procure even the amount of their board and lodging. The citizens of Lancaster, York, Harrisburg, and other interior towns, have zealously seconded our efforts, but their success has, from similar causes, nearly resembled our own.

The Congress of the United States having at a late period of their recent protracted session, made an arrangement by which the Poles are allowed, under certain considerations, to become settlers on some of the public lands, they have of late expressed a general desire to repair to the West, in order to take advantage of that arrangement. To facilitate their journey, the committee finally determined to distribute the means remaining in their hands to defray in part, the expense of subsistence while on their route, commencing them, at the same time, to the kind regards of our fellow citizens in the west, for such aid as their circumstances may enable them to add to the remains of your bounty.

In addition to the contributions in money made by our citizens, there have been some very acceptable donations of clothing, all of which have been duly distributed as the urgency of circumstances required. The committee cannot close this report, without expressing their acknowledgments to those benevolent individuals and companies, who have at our suggestion kindly offered a passage, free of expense, to several of the Poles, when travelling in search of employment. The rail road lines from this city to New York and to Baltimore, and the lines of stages to Pittsburgh and to Harrisburg, belonging to Messrs. Peters & Company, have each, in turn, deserved our thanks for favours of this description. Innkeepers and others have likewise frequently laid the Poles under obligations, for gratuitous entertainment while on their respective routes.

To a number of humane and highly respectable ladies, the committee have been indebted for their benevolent labours in obtaining apparel for the unfortunate exiles. While thus fulfilling the sacred offices of charity, they have entitled themselves to be remembered in the prayers of the mothers and sisters of those whom they have thus kindly relieved. Should the recital reach them amidst the cruel desolation of their country, the Cornelias of Poland, proud of the undying heroism of their sons, may for a moment, find the tear of gratitude coursing the channels in which only floods of sorrow are wont to flow.

Of the whole amount of funds placed at the disposal of your committee, there was collected by agents in the different wards and districts, or received in voluntary donations,

	\$1,848 26
From contributions in several churches, in which discourses were delivered in favour of the Poles,	486 97
From a benefit at the Walnut Street Theatre,	171 87
From an exhibition by Mr. Maczel,	43 00

Total cash receipts,	\$2,550 10
Of this amount there was expended	
for board, lodging, washing, &c.	1,108 99
Clothing, including shoes,	291 24
Instructor's Salary, room rent, books, &c.	84 47
Medicines and medical attendance,	14 65
Printing vocabularies,	20 00
Do. Advertisements, notices, handbills, &c.	67 59
Travelling expenses,	231 00
Cash paid to the Poles, including the sum distributed at the close of our operations,	492 50
Expenses of collection,	120 14
Several miscellaneous items,	119 52
	<hr/> \$2,550 10

Before their final separation, the general committee appointed the undersigned a sub-committee to audit the accounts and present to the public a detail of their proceedings.

Having disbursed the funds in their hands, and closed their operations, on the evening of the 16th instant, the Committee on motion adjourned *sine die*.

WALTER R. JOHNSON,  
JAMES O'CONNOR,  
WM. P. SMITH,

Sub Committee on reports and accounts.

Philadelphia, August 23, 1834.

## LAND TITLES.

(Continued from page 140.)

In the lessee of John Wilkins jun. vs. John Allenton, at Allegheny, November, 1801, before the same judges, (MSS. Reports,) the plaintiff claimed under a warrant in his own name for 400 acres of land, north and west, &c. on French creek, adjoining a survey made for one Baum, and including the claim formerly of John Wentworth, agreeably to the acts of assembly of 3d of April, 1792, and of the 9th of March, 1796, dated 18th of March, 1795, reciting that he was desirous to settle and improve the said four hundred acres. A survey of 373 acres, 102 perches, was made by J. Power, on the 20th of September, 1797, it being the same tract which was surveyed to John Wentworth, on the 27th of March, 1794, on his improvement, dated 3d of April, 1792.— A patent issued thereon, dated 17th of July, 1801, to Wilkins, which was admitted by the defendant's counsel to be read, though the demise was laid the 1st of February, 1799, and the ejectment brought to June term, 1800.

The defendant's counsel moved for a nonsuit. The terms of actual settlement prescribed by the 9th section of the act of 3d of April, 1792, are not shown by the plaintiff to have been complied with. The patent since the ejectment brought cannot dispense with the conditions originally imposed, nor have any effect. It was founded on mistake and misapprehension of the law, and is therefore void. 1 Black. Com. 348. It was decided by the justices of this court here in October, 1800, between Meade's lessee and Haymaker, that the conditions of actual settlement and residence are equally obligatory under the warrants obtained by Meade, as under others. Though the plaintiff claims under a credit given to David Meade by the act of 9th March, 1796; yet that law only removed the impediment as to his warrants, created by the acts of 22d of April, and 22d September, 1794, and operated as a virtual repeal of those acts, as to the necessity of previous improvements to such warrants. On the 14th March, 1796, the Board of Property estimated the lands of Meade at £1392, and by the act of the 9th of the same month, he obtained a credit for the same in the books of the Receiver General, which might be transferred to any person, and passed to the credit, either in taking out new warrants in any part of the state, where vacant land might be found, or paying arrearages of former grants. The law passed the house of representatives, obliging him to pay £30 per hundred acres, according to the provisions of the 6th section of the act of 21st December, 1784, for such new warrants as he should obtain: but it received considerable amendments in the Senate on the 27th of February, and 5th of March, 1796, and was finally modified and enacted as we find it in our statute book. It will not be pretended, that if he had received his money, he could have further claims against the state; and the legislature could not mean, that the sum passed to his credit, should be more valuable than the same sum in cash, in the hands of other persons; or that Meade, and those claiming under him, should experience the benefit of the diminution of price in the lands, and not be subjected to the terms of actual settlement, equally

with other citizens. The rate of lands across rivers Ohio and Allegheny was lessened, to enable the holders of them to make efficient settlements; and this was the great object contemplated in the law of 3d of April, 1792. It was calculated as a complete system of settlement, which would of itself be carried into execution. The words of the 9th section are, "In defect of such actual settlement and residence, it shall and may be lawful to and for this commonwealth, to issue new warrants to other actual settlers, for the said lands, &c." and of the 10th section, that on the actual settler making default, the commonwealth may grant the same lands, or any part thereof, to others by warrants. The variation of phraseology as to the two classes of land holders was certainly intentional. Other actual settlers mean persons really on the lands, and the expressions can convey no other idea. The entry of such settlers, therefore, on such lands, whereon default has been made, is congealable; the will of the community is supreme, and has so directed it. Warrant holders cannot pretend that they have more equity than actual settlers. If the latter abandon their settlements, their farms are open to new applications; why should it not be so also in the cases of the former? a base or qualified fee must be determined, whenever the qualification annexed to it is at an end.— 2 Black. Com. 109. There is a distinction between a condition in deed, and a limitation. When the estate is so expressly confirmed by the words of its creation, that it cannot endure for any longer time than till the contingency happens, upon which the estate is to fail, this is a limitation; and the estate may be defeated thereby, without any entry or claim to avoid it. Ib. 155. The estate here, is at the utmost a chattel interest, which terminated on the default of the warrantee. Ib. 156. The warrant is dated in March, 1796, and no settlement has been shown under it before the ejectment was brought to June, 1800, more than four years, though it should have been made in two years. On a condition precedent, the party has no estate until the condition be performed, even if the condition has become impossible. Ib. 157. 2 Dallas, 317. Co. Lit. 206, b. On a limitation, the estate determines *ipso facto*, without entry. Co. Lit. 214, b.

Moreover the argument *ab inconvenienti* applies forcibly in the present instance. Unless actual settlers are encouraged to seat themselves on the lands of defaulting warrantees, the intentions of the legislature as to forming settlements by way of barriers to the frontiers will be defeated.

The plaintiff's counsel observed, that they had it in their power to prove a settlement under the law, but deemed it unnecessary. The plaintiff was entitled to a transferred credit under David Meade; it was resolved in his ejectment against Haymaker, that he might take out a warrant without any previous improvement, a term binding on other citizens. Was he not then confessedly in a better plight than others with their cash in hand? The act of 28th of March, 1789, grants an equivalent to the Pennsylvania claimants either in the old or new purchase at their option; and warrants and patents, and all other acts of the public officers were to be performed free of expense. In these particulars also, they were put in a better situation than others applying for lands. We know nothing of the original bill in the lower house, or of the amendments thereto in the senate, which have been mentioned, and which afterwards were enacted into a law on the 9th of March, 1796. The court have not the journals of either house before them whereon they can judge; but this we do know, in the language of the same act, that the Pennsylvania claimants "had performed on their part all the requisites necessary to their obtaining the benefits of the said law; and it was but just that the persons complying with the terms of the law while it was in existence, should be entitled to the benefits of the same." The legislature had made a solemn engagement with the persons who had thus surrendered their pretensions.

for the public peace; and the community were bound by their acts as moral agents. We likewise find that grants were made to the Washington and Pittsburg academies, exempted from settlement. Why should not Meade and those claiming under him, have the same indulgence?

The sentiments of the court on the subject of settlement on Meade's right were delivered *abiter*, in the case of Haymaker; the point was not argued, nor was the question directly before the court, and is therefore open to discussion. If the two laws of 1794, had not passed, Meade might have obtained vacant lands any where within the state. What we insist on, is, that the law of 9th March, 1796, was meant as an honest fulfilment of the public plighted faith by the act of 28th of March, 1787, unfettered by the terms of settlement, or any other conditions whatever, unknown at this time.

But it has been said, moreover, that the warrantee never had more than a chattel interest, and right of entry in these lands, though he has paid the full consideration to the state. And it is assumed as a ground of argument, that the estate, such as it was, determined, *ipso facto*, by its limitation. This is denied, not only on the express words of the law, which prescribes a certain mode of issuing new warrants, vacating the original warrants, but on the authority of the decision of this court, in Morris's lessee vs. Neighman and Sheiner, in May, 1799. The warrantee by payment of his money and receiving possession of the land, obtains an estate on certain conditions; and to take advantage of a condition broken, there must be an actual entry, a stranger cannot enter, but only the grantor or his heirs.

It has also been objected, that there is a difference of expression in the 9th and 10th sections of the act of 3d of April, 1792, as to vacating the interests of warrantees and actual settlers. It will be clearly found, that the former section equally respects both, where defaults have been made as to settlements; and that the latter section is merely confined to the instances of actual settlers not taking out their warrants within ten years after passing the act. Admit an entire equality of equity, between the two classes of land holders, though the warrantees have paid their money, into the coffers of the estate; why, in the reason and nature of things, should entries on land, without authority, be allowed in the case of warrantees, and not as to the settlers?—The advocates of the pretensions of the latter, will not contend, that in default of the full, complete settlement and residence pointed out by the law, one actual settler may dispossess another of his firm, on pretence of the interest of the latter being determined by its limitation; and that the entry of the latter is congeable? Such a doctrine would produce infinite disorder and confusion. If inconveniences are to be regarded in the exposition of the law, it will certainly be necessary to adopt the rule, that some public authority should determine between the contending parties; that they should not be permitted to judge and decide on their individual claims, and carve out their several remedies at their will and pleasure. No one can doubt that the peace and welfare of the community are intimately interested therein.

By the Court. We expressed our opinions incidentally in Meade's lessee vs. Haymaker, that actual settlements were requisite, in the case of warrants issued under the act of March, 1796. The present question was not immediately before the court, but the case naturally led to it. We mean not, however, now to give any decided opinion on the point, as we are not possessed of the minutes of the house of representatives, or of the senate; which have been referred to in the argument.

Admitting that the conditions of actual settlement are obligatory on the warrants issued under that act to David Meade, and others claiming a credit under him, it is contended, that by the words of the 9th section of

the act of 3d of April, 1792, in default of settlement and residence, the commonwealth may issue new warrants to other actual settlers for the said lands, &c. and that these expressions imply a right to settle on such lands whereon default has been made, previous to such new warrants having been issued. But will not the intention of the legislature be better fulfilled, and all the words of the clause receive their full operation, by construing actual settlers, to mean other persons who are desirous to settle and improve the lands? If they must of necessity be construed to mean persons then cultivating the land, then none but such characters would be entitled to vacating warrants, in exclusion of the rest of mankind, however desirous and ready to make settlements. Besides, if we regard the grammatical construction, and adopt the sense insisted on by the defendant's counsel, then those words must be taken as referring to such actual residence and settlement, mentioned two lines before, comprehending fencing, clearing, cultivating, &c. erecting the messuage, &c. and residing thereon five years. Neither of these constructions, it is presumed, will be contended for; the first opposes every ground of that just equality, which ought to prevail amongst the citizens of a free government; the last is *fele de se* of the object endeavoured to be accomplished, and is moreover repugnant to the subsequent words, and so often as defaults shall be made for the time, and in the manner aforesaid, &c. which presuppose faults in new grants. The framers of the law wisely intended, in order to guard against confusion, disorder and uncertainty, that the constituted public authorities of the state, by the medium of the Land Office, should determine respecting the defaults alleged to have been committed by the first warrantees. The opinion delivered by this court in Morris's lessee vs. Neighman and Sheiner, was consonant thereto, and was delivered in direct terms, that no individuals could take advantage of the breach of the condition, unless through the instrumentality of the commonwealth's officers, by granting new warrants in a specified form. This was likewise recognized by the majority of the judges in the late contested case of the *mandamus* between the Holland Land company, and Trench Cox, the Secretary of the Land Office. We see no reason at present to recede from the opinion which we have deliberately formed; but are still open to conviction. We feel and know, that the point requires to be finally settled, and that the peace and safety of the country are involved in an early and mature decision. We therefore invite the defendant's counsel to take a bill of exceptions, move for a new trial, or to consider the question as a point reserved for further discussion. In the mean while, the motion for a nonsuit is denied.

The defendant's counsel then offered to show in evidence, that William Gregg and John Gregg, two brothers seated themselves down on French creek, in this quarter of the country in the year of 1789. They continued there that summer, and each designated for himself a tract of land, supposed to contain 400 acres; William's claim was up French creek, and John's below it. A small cabin was built on William's tract, wherein they resided. They then returned into the inhabited parts of the country, and came back in the spring of 1790, built a larger house on John's tract, and raised 100 bushels of corn, and 500 bushels of potatoes on the lands that summer: John Gregg returned to Susquehanna that fall, but his brother William continued to reside in the larger cabin, that fall, and the ensuing winter; and was killed by the Indians, on the lands, in the spring of 1791. The defendant afterwards intermarried with the widow of William Gregg, and holds the lands in controversy in her right, and under William M'Adams, the guardian of his minor children.

This evidence was opposed by the plaintiff's counsel, on the ground of its not proving a settlement recognized by the law. By section sixth, of the law of 12th or March, 1783, no improvement, office right, or claim,

under any Indian nation, or the late proprietaries, within the lands appropriated for the redemption of the depreciation certificates, or donations to the officers and soldiers in the continental army, shall be valid, but the same shall be null and void to all intents and purposes whatsoever. Ante. page 64. By the second section of the act of 1st of April, 1784, (ante. page 102) the Land Office which was shut in 1776, was first opened from the 1st of July, 1784, for obtaining new rights to lands already purchased from the Indians; and the 8th section (ante. page 104) excepts the depreciation and donation lands. The same exception is again made by the act of 21st of December, 1784, (post chapter 1111, § 6.) The law of the 3d of April, 1792, first gave a right of settlement to these lands. The words of the second section are, "the lands north and west of the rivers Ohio and Allegheny, and Conewango creek, are hereby offered for sale to persons who will cultivate, improve, and settle the same; and the 5th section, which directs, that the deputy surveyor shall not survey the lands on warrants, that may have been actually settled and improved prior to the date of the entry of such warrant with the deputy surveyor of the district, except for the owner of such settlement and improvement, can only mean lands settled and improved after passing of the act.

By the Court. The present case interests our feelings; but we must endeavour to find out the true meaning of the law, and adhere to it firmly. The grammatical construction of the act is clear, and puts all the people of the country on an equal footing. The words of the act are in the future tense; and the preamble of the act offering encouragement to actual settlers, must naturally refer to those who shall settle, and not to those who had theretofore settled. We are bound by the expressions; and, our uniform decisions have been, that proofs of settlement under this law, should be confined to settlements made after it was passed. But if the defendant's counsel are dissatisfied with this opinion, we again invite them to put it in a train to go before another tribunal.

It was then agreed that a verdict should pass for the plaintiff. And when the verdict was pronounced, the plaintiff agreed to convey one moiety of the lands in question, to the minor children of the said William Gregg.

Again: On the 19th of February, 1801, an act was passed, (chapter 2174,) entitled, "An act for the relief of Peter Wikoff, Jonathan Bayard Smith, and others," which recited that those gentlemen and others had received patents from the commonwealth, for certain tracts of land, in pursuance of surveys made before the north line of the state was ascertained; and that these lands had fallen within the state of New York: it therefore enacted, that on their application, the Board of Property should ascertain the amount of payment made by them for such lands, and should certify the same to the Receiver General, who was thereupon to deliver certificates to them, with interest from the time of payment, and enter a credit, in his book for the same, which might be transferred to any person and passed as credit, either in taking out new warrants in any part of the state, where land may be found, or in payment of arrears of former grants. Certificates were accordingly issued; and on the 6th of September, 1804, new warrants were taken out, and executed upon lands in M'Kean county; which warrants had been regularly transferred to Jonathan Smith. The surveys were returned and accepted; but at the time the warrants were executed, and up to the present time, no settlement had been made nor grain raised, nor did any person reside, on the lands on which they were laid; and therefore the officers of the Land Office refused to grant patents.

This gave rise to the case of the commonwealth vs. Cochran, in the supreme court, 2 Bancy, 270, which was a motion for a rule upon the defendant, the secre-

tary of the Land Office, to show cause why a *mandamus* should not be awarded, commanding him to prepare and deliver patents to Jonathan Smith, for the lands so warranted and surveyed.

The objection made by the Attorney General was principally grounded on the act of 23d of April, 1794, by which the Land Office was prohibited from issuing warrants for lands within the new purchase, where these lands lay, "except in favour of persons claiming the same by virtue of some settlement and improvement being made thereon." And the supplement to that act, passed 22d of September, 1794, by which the office was prohibited from receiving applications for any lands within the commonwealth, except for such lands whereon a settlement had been, or should be thereafter made, grain raised, and a person or persons residing thereon. And as the warrants in this case were laid upon unsettled lands, they came precisely within the intimation of those laws, and were not entitled to confirmation by patent. That the law of 1801, was passed while the interdiction was in full force; and unless it operated as a repeal in a certain degree, of the laws of 1794, there was no ground for the motion; and it was pressed that it did not operate as such repeal.

Tilghman, C. J. delivered the opinion of the court.—The objection to the patents is founded on the acts of 1794. These acts forbade the issuing of warrants, or receiving applications for lands on which no settlement and improvement had been made; and it is contended, that as the warrants in question were laid on unsettled lands, their execution was illegal, and ought not to be confirmed by patents. It appears to us, that this objection is not well founded. Upon a fair construction of the act of 19th of February, 1801, the persons in whose favor that law was made, had a right to take out warrants for their own use for vacant lands in any part of the state; and they were to pay the price, and comply with all the conditions imposed on the purchasers of land in that part of the state, where the lands lay. If they lay west of the Allegheny river, they would have to comply with the terms of settlement and improvement required by law to complete a title in that quarter; but, if east of that river, nothing but the usual price in money was required. To give the act of 19th of February, 1801; any other construction, would be to deprive the persons intended to be compensated, of a very material benefit; I mean the benefit of taking out warrants for themselves. They would have been obliged to sell their warrants to settlers, which would have very much reduced their value, or to speak more properly, they might have transferred to settlers their credit on the books of the Receiver General; but would have had no right to take out warrants themselves, unless they either purchased the right of settlers, or seated themselves on the land intended to be taken up. This never could have been the intent of an act, by which it was designed to make a liberal compensation to persons who had paid money to the state through a mistake of its own officers. The compensation was liberal, because it included interest to the time of issuing the certificates. No interest was allowed on these certificates, because it was supposed that the holders might immediately use them as cash, by taking out new warrants. The opinion of this court is, that the act of 19th of February, 1801, operated as a repeal of all former acts, requiring a settlement previous to the issuing of a warrant, so far as concerned warrants to be issued in favor of those persons who obtained credit in the books of the Receiver General in the manner above mentioned. They therefore allow the motion. Rule granted.

It is necessary, however, further to notice, that by an act passed 1st of April, 1805, entitled "An act for the speedy redemption of certain certificates therein mentioned," (chap. 2587,) it is enacted that it shall be optional with the holders of certain certificates, usually called "Wyoming credits," issued under "an act to

compensate David Meade, and others," passed 9th of March, 1796, as also the holders of those issued under an act, entitled "An act for the relief of Peter Wikoff, &c." passed 19th of February, 1801, to receive from the treasury the amount of said certificates, or any of them, or to apply them in taking out warrants for lands, or in discharge of arrearages on former grants; and the warrantee who may pay the purchase money in certificates of either description, shall be as liable to the payment of fees, and the conditions of settlement and cultivation, as is or may be required of those who pay the purchase money in specie; and no credit shall hereafter be allowed to any person paying for lands with the credits aforesaid, on account of expenses incurred in surveying or locating any lands, any custom or usage to the contrary notwithstanding.

The fees of the Land Officers were fixed by an act passed April 20th, 1795, (chapter 1852.) But so much of that act as related to the fees of the Surveyor General, was repealed, and his fees regulated by an act passed 8th of April, 1799, (chapter 2053.) And on the 29th of March, 1803, an act was passed (chapter 2359) entitled An act authorizing the Secretary of the Land Office, and the Attorney General, to recover the fees due on warrants and patents remaining in the Land Office. See the acts of 29th of March, 1809, 4th of April, 1809, and 25th of December, 1809, *infra*.

By an act passed 22d of January, 1802, (chapter 2213,) no caveat or note on survey then on record or otherwise, either in the office of the Secretary, or in the office of the Surveyor General, shall continue to bar the issuing of a patent, or patents, to those, or their legal representatives, against whom the same has been entered, during a longer term than two years from passing the act, unless the person entering the caveat, or others holding or claiming the estate, shall within the said term of two years, take out a citation, and prosecute the same to effect.

§ 2. No caveat, note on survey, or writing in nature of a caveat, hereafter to be entered shall continue to bar the issuing of a patent, during a longer period than two years from the entry of such caveat, unless the party interested shall within that term, take out a citation thereon, in order to bring such dispute to a decision, and prosecute the same to effect.

On the 2d of April, 1804, (chapter 2487,) an important act was passed, which was liberally intended to afford an opportunity for purifying many titles from defects arising from frauds committed on the Land Office. The preamble recites that many persons who held lands under proprietary warrants or locations, have, in order to obtain patents for the same at reduced prices, procured new warrants from the state, on which, in most cases, patents have issued, thereby endeavoring to avoid the payment of part of the principal and interest due on their general contracts, and at the same time rendering the titles of those who are purchasers under them insecure; and it enacts, that on the application of any person holding a warrant for lands within this commonwealth under the authority of the same, on which surveys have been made, or patents issued, and who are also in possession of the title to the same land, or any part thereof, by virtue of a proprietary warrant or location, and who are now desirous of doing justice to the state by patenting their said lands on their old proprietary warrants or locations, the Board of Property shall have power to direct the Receiver General, on settlement of their said accounts on the said proprietary warrants or locations, to carry to their credit the amount of purchase money and interest paid by them, or those under whom they claim, on their said new warrants.

This act was to continue in force for three years, and to the end of the next session of the Legislature. By the 3d section of an act passed 26th March, 1808,

(chapter 2971,) this act is continued in force until the 1st of September, 1809.

By an act passed 4th of April, 1809. The act of 2d of April, 1804, is further continued until the 1st day of April, 1812.

On the 4th of April, 1805, (chapter 2605,) an act was passed entitled "An act to encourage the patenting of lands, and for other purposes." By which the Receiver General was authorized to settle the accounts of all persons who might apply within three years from the passing the act, who are indebted to the commonwealth for the purchase money of lands, and interest, and who have not received patents; and on the payment of the usual fees of office, such persons were to receive patents upon executing a mortgage to the Governor for the use of the commonwealth, to secure the payment of the aggregate of the arrears of purchase money and interest due, in ten annual instalments, the interest of the whole aggregate sum remaining due to be paid yearly; and all mortgages executed in pursuance of the act, were to be filed in the office of the Secretary of the Land Office, to be available without the recording hereof; the Secretary, before delivery of the patent, to endorse thereon, that such mortgage had been executed, &c. And the act to extend the time for patenting lands, which had been for several years annually continued, was further extended for three years.

By the 1st section of an act passed 14th of March, 1808, (chapter 2926,) the provisions of the above act were continued in force until the 1st of September, 1809.

By an act passed the 4th of April, 1809, that part of the act of 4th of April, 1805, relating to the appropriation of the purchase monies received for lands, was partially repealed and suspended until the 1st of September, 1809, from and after which day the said act was declared to be and continue in full force and effect.

The construction of this act was doubtful; and by an act passed 21st of February, 1810, all the provisions of the first section of the act of 4th of April, 1805, were re enacted and continued until the 1st of November, 1811, and no longer. This act also provided, that any mortgage or mortgages under the said act, might be executed by any duly constituted trustee, or trustees holding lands, or by the guardian or guardians of minors duly appointed, or by executors to whom the sale or disposal of the land to be mortgaged, is given by the last will and testament of their testator, and that patents might be received by them respectively for the use and benefit of those entitled; and any mortgage in pursuance of said act, might be acknowledged before the secretary of the Land Office, or magistrate authorized to receive the acknowledgment of deeds. It provided also, that mortgages might be executed and acknowledged by attorney duly constituted, and the letter of attorney, being duly acknowledged, shall be filed in the office of the Secretary of the Land Office; a copy whereof, and also a copy of any mortgage, duly certified under the seal of said office, is declared to be as sufficient evidence in all cases, as the original.

The mortgagors are permitted, at any time before the days of payment, to pay the whole principal and interest to that time, or a lesser sum than the whole instalments to become due, deducting, in such case, so much interest as would have accrued upon said instalments, if not discharged previously to the time or times when they were respectively made payable, and an acquittance shall be indorsed on the mortgage for such instalment, or instalments, so as aforesaid paid.

By an act passed 30th of March, 1811, all the provisions of the foregoing act of 21st of February, 1810, are continued until the 1st day of January, 1813, and no longer: Provided, "that nothing herein contained shall be construed, or so understood, as to entitle any person or persons, or corporate bodies, executors or administrators, on behalf of each minor, to the benefits of this act for any greater quantity than five hundred

acres of land held by him, her or them, in his, her or their own right."

Connected with this subject, is the act of the 13th of April, 1807, (chap. 2863, sect. 1,) entitled "An act directing the mode of settling accounts in the Land Office, and to prevent frauds in obtaining warrants for land."

It enacts,—That the Receiver General, on the settlement of any account for monies due for lands, within the Indian purchases made in, and prior to the year 1768, to ascertain the amount of principal and interest due at the time of passing this act, upon such account, and upon the aggregate amount so found due, to charge interest, until the amount of the account is discharged: Provided, That any person paying to the Receiver General the amount of money due from him, her or them, on or before the 1st of March, 1808, or otherwise, before said day, complying with the provisions of the act of the 4th of April, 1805, shall be charged interest only upon the principal sum due up to the time of such payment, or of executing a mortgage agreeably to the directions of the said act.

By the second section of the act of 14th of March, 1808, (chap. 2926,) the foregoing section was suspended until the 1st of September, 1809. Provided, "That nothing herein contained shall be understood to authorize the Receiver General to settle any account of monies due on such lands in any other manner than is directed by said act, unless application be made for that purpose before the expiration of the period above limited, but in all cases of application after that period, interest shall be charged upon the aggregate sum from the time of passing the said act." (13th of April, 1807.)

The act of 13th of April, 1807, is further suspended until the 1st of November, 1811, and no longer, by the second section of the act of 21st of February, 1810, until which time patents may be granted upon paying, or securing by mortgage, the purchase money due, with interest on the principal sum only to the time of such payment, or execution of such mortgage.

The act of 13th of April, 1807, will be in operation after the 1st of November, 1811, except as to such persons as may be within the act, and proviso thereof, passed the 30th of March, 1811.

The 2d section of the said act of 13th of April, 1807, provides, that before any warrant issues from the Land Office, for any land within the Indian purchases in and prior to 1768, the person for whose use, and in whose name such warrant is applied for, shall declare upon oath or affirmation, in addition to the usual proof required by the officers of the Land Office, to be taken and subscribed before some one of the judges of the court of common pleas, or justice of the peace of the county where the lands lie, or before the secretary of the Land Office, that according to the best knowledge and belief of deponent, no warrant; or other office right, had issued for such land in the name of such deponent, or of any person or persons under whom he claims, and if at any time thereafter, it should appear, that the persons deposing as aforesaid, or any of them, shall knowingly have sworn falsely, such person or persons shall suffer all the pains and penalties of perjury.

By an act passed April 4th, 1805, (chap. 2590,) it is made the duty of all persons now holding, or that may hereafter hold unexecuted land warrants, to file or enter the same with the surveyors of the proper district within two years after the passing of this act, or within two years after the date of such warrants respectively, and on failure thereof, such warrant or warrants shall not have any force or effect against a warrant of a later date, nor against an actual settler on the lands called for in such unexecuted warrant.

By an act passed 25th of March, 1805, (chap. 2560, sect. 1,) the tickets for donation lots, in the easternmost parts of the second donation districts, commonly called the struck district, are directed to be taken out

of the wheel, to be reserved for and granted to those who may have settled the same, agreeably to the act of 3d of April, 1792. And persons holding donation lands within the bounds thereof, or within the triangle, and releasing his patent to the commonwealth, may, on application to the Land Office, have another unappropriated lot, or lots, of equal quantity, to be patented free of expense.

This act, which was of limited duration, was annually continued until the 1st of April, 1810, and has been permitted to expire.

On the 29th of March, 1819, an act was passed, entitled "An act abolishing the offices of Receiver General, and Master of the Rolls, and transferred the duties therein performed to other offices, and for other purposes."

§ 1. The offices of Receiver General and Master of the Rolls were abolished after the 10th of May, 1809.

§ 2. The books, papers and documents, in the Receiver General's office, and the patent books, records, and documents relating to the titles of lands in the Roll's Office are directed to be delivered to the Secretary of the Land Office, to be by him deposited in his office: and all the books, papers and other documents in the Roll's Office, containing the records of, or relative to the enrolment of laws, or other acts of the legislature, to be delivered to the Secretary of the Commonwealth, to be deposited in his office.

§ 3. After the 10th of May, 1809, the fees on issuing a warrant in all cases to be four dollars, and fifty cents for each and every warrant of survey and acceptance, which shall issue, except as after excepted; and all calculations of the purchase money and interest due on lands sold, or hereafter to be sold by the state, to be made, or caused to be made by the Secretary of the Land Office, who shall direct the payment of the money by the applicant, together with the price of the warrant, into the state treasury; and the Treasurer shall give duplicate receipts for the money paid, one of which shall be deposited with the said Secretary of the Land Office before the warrant shall issue.

§ 5. After the 10th of May, 1809, the fees on patenting in all cases shall be ten dollars, where fees are receivable, for each patent that shall issue, to be paid to the State Treasurer, who shall give duplicate receipts for the same, one of which shall be deposited with the Secretary of the Land Office before the issuing of the patent; the patent to be enrolled without additional fees under the direction of the said Secretary, who shall also possess all the powers, and perform all the duties, so far as the same relate to the papers to be deposited in his office, hitherto appertaining to, or directed by law to be performed by the Master of the Rolls.

§ 6. The secretary of the Land Office monthly to deliver to the Auditor General all the receipts of the State Treasurer, which shall come into his office for monies received at the treasury for lands sold, and fees paid on warrants and patents; and the Secretary of the Land Office, and the Surveyor General, on their own oaths or affirmations, and the oaths or affirmations of their deputies or clerks, engaged in the receipt of money, shall monthly account to the Auditor General for all fees hereafter to be received in their offices, which monies they shall pay into the state treasury.

§ 7. The Secretary of the Commonwealth, the Secretary of the Land Office, and the Surveyor General, or any two of them, to constitute the Board of Property, with all the powers of the former Board.

§ 8. The Secretary of the Land Office to prepare a seal, to be styled "The Seal of the Land Office of Pennsylvania," which, after the 10th of May, 1809, shall be applied to all patents, warrants and other papers, authenticated in said office, and all patents and warrants which shall issue thereafter, shall be signed by the said Secretary, and the patents attested by his deputy or first clerk.

§ 9. Patents for reserved tracts and town and out-lots, north and west of Ohio, &c. to issue in the same manner, and the powers and duties of the governor respecting them, &c. vested in said secretary.

§ 10. Secretary of the Land Office and Surveyor General to be appointed for three years from said 10th day of May.

By a supplement to this act, passed 25th of December, 1809, no fee shall be received in the Surveyor General's office for filing and directing a warrant, and the whole amount of money to be paid on issuing, filing and directing the same, shall be four dollars and fifty cents.

In all applications for warrant's, the applicant, at his election, may pay the interest on the purchase money accrued previously to the date of the warrant, either at the time the purchase money shall be paid, or after the return of survey shall have been made, and before the issuing of the patent.

In all cases of warrants issuing hereafter, where the return of survey shall have been previously made on proprietary locations, and whereon a warrant, commonly called a warrant of acceptance shall issue, the price of said warrant shall be two dollars.

All patent fees paid previously to the new arrangement, the same to be deducted and the patent to issue, on payment of the interest.

The act of March 29th, 1809, not to affect the payment of the surveying fees directed to be paid by certain Connecticut settlers. See an act passed April 4th, 1809, a supplement to the act to encourage the patenting of lands.

The following subjects being local and special, will be distinctly considered in the notes to the acts relating them respectively.

**Donation lands.** An act laying out a town at *Presque Isle*, and for selling the different reserved tracts. An act to prevent intrusions within the counties of Northampton, Northumberland and Luzerne. The Luzerne compensating act, and the act to protect the territorial rights of the state.

(To be concluded.)

## DISCOURSES BEFORE THE LAW ACADEMY.

(Continued from Vol. xii. p. 337.)

A Discourse pronounced before the Law Academy of Philadelphia, on the 26th of October, 1831—by JOUN K. KANE, Esquire, Vice-Provost.

While human happiness shall repose for its secure enjoyment on the institutions of society, the science and the profession of the Law will maintain their interest and elevation together. The citizen will commit the interpretation and defence of his rights to men of integrity, learning and talents; and the individuals who are thus distinguished, will reflect their own dignity on the body to which they belong. As in the progress of intelligence, civil liberty becomes less restricted, and its value more highly estimated, the bar will continue to extend its influence; and it will be most honoured, because most useful, when the government is itself controlled and its authority defined by a written constitution. Such a government is merely a compact, which differs most from others in the superior importance of its subject; and it is the appropriate office of the lawyer, to expound its provisions, to maintain the purity of its principles, and to guard them from misapplication and abuse. If he has performed these duties faithfully and with skill, who shall doubt his title to the confidence and affections of his countrymen?—

I need offer no other considerations as an apology for addressing you this evening on the subjects connected with the Constitutional Law of the United States. The time has gone by, when either authorities or prejudices, however venerable, could sway the sceptre of opinion.

The spirit of dauntless inquiry is abroad: Every ques-

tion, that relates to the past history or the future tendencies of the government, is investigated with anxiety, and discussed with fervour; while in politics as in religion, error of sentiment is tolerated safely, because truth is on the watch, and free to combat it.

The fact that government is a compact, which in many countries has been left to doubtful or at least disputed implication, is the basis on which the Constitution of the United States professes to rest. Its objects are equally clear, "to form a more perfect union, to ensure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to the people of the United States."

Who are the parties to this compact?—On the one side it has been said, that the preamble and enacting words of the instrument declare them to be the people;—on the other, that having been framed by a convention which derived its powers from the states, and having been adopted at last by the states, acting each for itself, the states as such are the parties. Perhaps, if its terms were exactly defined, the question would be found to be of less moment and less difficulty, than some of those who have argued it supposed. By the expression, *a State*, as used in the discussion, I of course do not understand the inhabitants of a district of country, who have associated for the purposes of government, but the body politic which they have instituted or maintain. If this is properly assumed, the question may be resolved into another:—Are the people to be considered parties to the constitution directly; or parties by the intervention and agency of their organs, the state governments?

The states, as governments, had no powers, but those which they derived from the grant or the assent of the people. If they had received no power to accede on behalf of the people to the formation of a general government, an act of accession on their part was null and without effect:—And so, conversely; if they had the right to accede to such a government, they derived it from the people: in the act of accession, they were the mere agents of their people: and the act itself must be considered the act of the people themselves. Whether the action of the popular body was mediate or direct, the effect of it in this view of the question would seem to be the same.

The constitutions of the several states as truly define the powers of the state legislatures, as that of the United States does the powers of congress. It may be indeed, that to a certain extent, different rules of interpretation should be applied to them. The constitutions of the states, having been in some cases made without reference to any other, or co-ordinate government; they may perhaps be considered as vesting in their respective departments all the powers of government, from which they are not expressly or by implication restricted; while the federal government is in its very terms, of limited application. But though this may be admitted, it does not effect the right of the state government to become a party to the federal constitution. A free government derives all its authority from the delegation of the people: its powers may have been conferred by implication or in very general terms; but all that is not in some manner delegated, remains in the people. Government is a trust, and the highest that can be committed by man to his fellow. It partakes of the trust character, with which our courts are familiar, at least in this, that he in whom it is vested, cannot refer himself to the discretion of others. The legislator, the chief executive, the judge, must exercise his office in person. By what right then, could the state governments, mere attorneys with prescribed authority, create a new government, with distinct powers, and enlarged jurisdiction over the people of the several states? How could they delegate the right of taxation, the right of war and peace, the judicial power, to a new set of officers, to be chosen by other persons than their own constituents? If they had this specific right conferred on

them;—the right namely of constituting a general government;—what were they, in the exercise of it, but the channels through which it pleased the people to convey their authority to others? If they had it not, their act was an usurpation, and can derive its efficacy only from the acquiescence and consequent ratification of the people.—At last then, the obligatory force of the federal constitution finds its origin in the assent of the people of the states. It is the creature of the people, formed by themselves, for their own benefit:—not a concession of sovereigns admitted at the popular solicitation,—not a transfer by sovereign governments of a portion of their powers; but a resumption by the people, who had formed and could annul those governments, of parcel of their rights, and a new surrender of them to a different set of agents. Whether this resumption was made by the people, in a convention of delegates, or in their ordinary representative assemblies, or in popular meetings,—it was their act alone. No pre-existing government, whether instituted by them, or confirmed by their acquiescence, could be considered as in any degree contributing to the validity of the act.

The course of these remarks is not affected by the circumstance, that the constitution was formed and adopted by the states, or more correctly speaking, by the people in the states. The states were governments already in existence, each of which was for the purposes of this question an independent principality within its own borders. Without resorting to its organization, there was no way in which the popular suffrage could be readily and truly ascertained. The question too was in each case one which involved the destruction or the modification of some of the powers, which were before confided to the government of the state alone: to adopt the federal constitution, was to amend the constitution of the state. There would have been manifest injustice, in referring to the collected and undistinguished votes of all the citizens of the United States, the propriety of changing the fundamental institutions of a particular state. Such a course would have made it possible, that a state or even several states might be subjected to the operation of the new government, without the assent of their citizens, and in opposition to their principles and their wishes. A government with such an origin would have been a tyranny, and could never have received the confidence of the people.—To affirm then, that the adoption of the constitution was the act of each state, or of the people deliberating and acting by states, is merely to affirm, that the constitution was adopted in the manner best fitted to obtain the true sense of those, who were to become citizens under it, and to secure the permanence of the government to which it should give birth. It is not to advance one step in the argument, by which a supervisory power is claimed for the state governments, over the government of the Union.

I know, that it has recently been suggested by a highly distinguished citizen,\* that the states were never distinct, independent principalities. He supposes that the Declaration of Independence which described the thirteen states, as “united,” asserted for them a joint character, which is incompatible with the idea of their separate sovereignty. “The property of union, he affirms, is equally essential to their existence, with those of independence and freedom.”—“without union, the covenant between the parties to the declaration contains no pledge of freedom or independence.”

The opinion appears to me as erroneous as it is novel. The withdrawal of the colonists from their allegiance to the mother country, erected the colonies into states, without any reference to the subsequent public declaration of their independence. Their very union pre-supposed their separate existence. There could be no compact between them, in their character of depen-

dencies on the British crown: their voluntary union was that of self-regulating communities.\*

It is too much to affirm, as it seems to me, that the states will cease to be independent and free, when they shall cease to be united. Such may unhappily be the proper remark of the historian, who shall record the dissolution of the Union; but the question for us is not of prophecy, but of deduction from the constitutional organization of the states. What, according to the doctrine in question, is to be the situation of a state, when from any cause or in any manner, it has ceased to be a member of the Union? Has it by its withdrawal cancelled the assertion of its freedom? Does it relapse into a state of dependence on the British monarch? Or, does it absolutely cease to exist as a body politic; and are its citizens referred to a state of nature, and free to choose whether they shall again submit themselves to the control of laws?—The states of New York, North Carolina, Rhode Island, and Vermont, delayed their ratification of the constitution, until after it had received the assent of nine states, and had thus become the fundamental law of their Union. For a time then, these states were without the pale: they had ceased to be united with the rest. Did they, in consequence, lose their character of states,—free states,—independent states?—if they did, when and how was that character resumed?

But the consequences of the doctrine are not confined to a withdrawing state: those that remain partake of the calamity. The integrity of the Union is gone:—while it subsisted, its relations were mutual, uniting each to all, and all to each? Does not the withdrawal of one destroy this relation as to all?

On the 2d of July, 1787, nine states had declared their assent to the new constitution. These were but a part of the thirteen, which had in 1776 formed together the “compact of union, independence, and freedom.” If, as the late president affirms, “no state, whose people were a party to that declaration, could without violation of that primitive compact secede or separate from the rest;” then it is plain, that by adopting the present constitution, the nine states broke the compact, and the essential properties of their freedom and dependence were dissolved with that of their union to the others. The golden chain was severed, and like creatures of enchantment in an Eastern tale, its radiant links lost at once their continuity and their being.—Consequences like these cannot have been present to the richly stored mind of this eloquent writer; and perhaps indeed the remarks to which I refer may be nothing more than a figurative assertion of the importance of the union to our independence and freedom: but if so, it may be admitted that his language is somewhat strong, and liable to misconstruction.

Such being the history of the constitution of the United States, it follows that every violation of it is a wrong committed against each citizen of the country.—The compact is broken, to which he was a party, as one of the people; and he has personally claims to redress. That redress, however, will rarely be found incompatible with the permanence of the compact, and the general harmony of the parties to it. It would indeed have been strangely unwise on the part of those who framed the constitution, to leave the question of its infraction to be decided in every case, by the judgment of those who were affected by its action, and the measure and manner of redress to be fixed by their discretion. This would have been anarchy, and in its worst form, because bearing the semblance and sanctions of constitutional rule.

Those violations of the constitution which may be committed by individuals, are so obviously within the cognizance of the courts of law, and the manner of redress in such cases is so well known to you, that it is not necessary for me to consider them at this time. The

\* Mr. Adams, in his Oration, addressed to the citizens of the town of Quincy, 4th July, 1831.

\* See note at the end.

more important and dangerous infractions of it are those which may be made by one or more of the co-ordinate departments of the government. It remains for us to inquire, what is the remedy of the citizen in case of such infractions.

The executive may transcend its constitutional powers, or may be guilty of other official crimes and misdemeanors. For cases of this class, the mode of accusation and trial, and the character of the punishment are all defined in a single paragraph of the instrument.—“The President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other crimes and misdemeanors.” Art. 2, § 4. The ordinary courts of law in the mean time, secure immediate redress to the citizen, who may be wronged by the unconstitutional act of a civil officer; inasmuch as by exceeding his proper authority, he loses the protection of his station.

Laws may be enacted by congress, which are not in pursuance of the constitution. If so enacted, they are without obligatory force upon the citizen, the mere acts of an attorney who has disregarded the limitations of his power. The supreme law of the land consists of the constitution, the laws which are passed in pursuance of it, and the treaties which may be constitutionally concluded with foreign powers. Deny to a law or to a treaty its accordance with the constitution, and you disaffirm its vitality. The courts cannot interpret or apply it: it is not a rule of action. It is incorrect to say that it may be annulled by the judiciary: it is not, it never has been the law of the land.

The power of judging of this accordance between the fundamental law and the legislative acts of congress, devolves of course on every individual, who is called to execute, or even to submit to the law. The executive magistrates of the union, and of the states, and the representatives of the people, of every class, are bound by oath to support the constitution; and it is therefore clearly their duty, to proclaim and oppose its violation. When this opposition occurs; no matter by whom produced, the citizen or the officer; the question presents itself directly for the consideration and decision of the judiciary. And herein is the great security of individual rights. Precluded by their official character from taking part in the business of legislation, and not liable therefore to be misled into excitement by the conflicts of party; independent of the legislature in their official tenure and emoluments,—above the power, and above the patronage too of the executive,—the judges of the federal court can have nothing to hope for, or to fear, in the pure exercise of their high office, but the yet higher judgment of public opinion, and the stern revival of posterity.

The judicial power, it may be remarked, extends only to the decision of cases as they arise:—it does not include the preparation of an authoritative system of commentaries, on the constitution, nor the promulgation before-hand of principles, by which the validity of acts of congress is to be tested. Yet, no lawyer can regard with other feelings, than those of the highest and most grateful interest and respect, the detailed reasonings, by which the members of the Supreme Court of the United States have supported its decisions. They serve to define more exactly the extent and limits of each judicial precedent, they illustrate the constitutional views of the eminent men by whom they were pronounced, and they enable the people, that last and highest tribunal of our government, to revise their decisions, and by appropriate amendments to the constitution or the law, to supply omissions and repair mistakes.

The Supreme Court has been said, to fix by its decisions the meaning of the constitution, and thus to define its own powers, and those of the other branches of the government. The frankness which should characterize an address from this place, must be my apology

for the remark, that this position, though true in a certain sense, appears to me too general. The decision of a court, on matters within its jurisdiction, is of course conclusive. It is desirable moreover, that decisions should be harmonious, and that questions of general interest especially should be referred, as far as possible, to uniform standards of right. I do not mean therefore to intimate that judicial precedents, or even that the principles and spirit of judicial precedents, should be lightly regarded. But the opinion, which ascribes to them a binding force, an effect on future cases, similar to that of a constitutional provision or a legislative enactment, I am not prepared to accede to. I do not even understand, that the concurrent opinions of those, who have before administered the departments of government, can legitimately control the opinions or the acts of their successors.

To repose much confidence on the co-temporary practical expositions of the constitution,—to consult with anxious care the opinions of those who have judicially expounded it, and gladly to avail himself of the fruit of their learned labours,—to defer with all humility to the conduct and the views of the great and the wise;—this for the legislator or the judge, is but to seek the best and safest means of forming his own judgment. But the oath which he has taken to support the constitution, is broken, if in the hall or on the bench he gives validity to that, which in his conscience he believes to contravene it. No matter what others have thought, or spoken, or done;—their example may direct, their patriotism may persuade, their learning may enlighten his judgment;—but the question of conscientious obligation is between the statesman and his maker: it may not be controlled by the discretion of his fellow men.

It has been solemnly adjudged, that the passage of a particular law is not authorized by the constitutional grant of powers to congress:—The representative, before he permits a similar act to pass through the forms of legislation, will jealously reconsider his former opinions:—aware that the high tribunal, which has refused to execute the law in question, is pure, enlightened, and patriotic, he will rejoice to be satisfied that the error was with him;—or failing this, he will seek another mode of attaining the same public object; or will inquire whether the object itself is of such importance,—I had almost said, such necessity—as to justify a repeated collision of sentiment between co-ordinate branches of the government. But if at last, he is forced to the conclusion, that the power belongs to congress, and that its exercise is necessary to the general welfare or the public safety,—shall he be justified in refusing to pass the law?

Or, it has been decided, that a former law was constitutional; and it is proposed to re-enact it in terms:—can the legislator give it his support, who conscientiously believes it an usurpation of power, and an infraction of the constitution?—Admit that he can discover nothing, either in principle or in the circumstances of the country, to distinguish the bill before him from the law which has expired,—that he has the most exalted reverence for the motives of those, who have preceded him in office,—and that he is entirely sensible of his inferiority to them in all, except attachment to his country, and regard for her institutions:—may he not be allowed to presume, that their conduct was based on other considerations than those which now exist,—that they were perhaps swayed by the exigencies of the times,—that they then had some justification for their proceeding, which would not apply to his?—or, is he bound, because he believes they were conscientious, and wise, and attached to the country, therefore to surrender upon his own judgment, disregard his views of patriotic duty, and violate his conscience?—Admit his opinion to be, that the law would be salutary: it is at most the opinion of an agent, that his authority is unwisely restricted; in other words, that were he tho

principal, he would give wider scope to the discretion of his representative. But this is to reason of policy, not of right: And if the question were thus to change its character; it might yet perhaps be doubted, whether a government, which is confessedly exposed to change with the varying intelligence of its successive agents, is not safer, more sure at last to reflect the popular will, less apt to assert and exercise dangerous or forbidden power, than one which acknowledges a binding force for the future in the interpretations which its officers have recorded of their own powers in the state.

The 8th section of the 1st article of the constitution sets forth with so much distinctness the specific objects of the legislation of congress, that few questions have as yet arisen in regard to them. They relate generally to the powers of taxation and finance, the regulation of commerce, the establishment of uniform rules of naturalization and of bankruptcy, the control of the standards of value and of quantity, the post office, the security of the rights of invention and authorship, the constitution of inferior judicial tribunals and the punishment of certain offences, the war-making power and its accessories, and the exclusive jurisdiction of congress over the seat of government, and over land occupied for public purposes. The section concludes with a declaration of the further power of congress, "to make all laws, which shall be necessary and proper for carrying into effect the foregoing powers, and all other powers vested by the constitution in the government of the United States, or in any department or officer thereof." It is this grant or admission of the incidental powers of congress, which, as you are aware, has frequently been the subject of elaborate, and not always temperate discussion.

It is not my purpose to review the several opinions which have been entertained in regard to it, nor to inquire whether it is a substantive grant of powers, a declaration of powers, which would without it have been implied from the context, or a qualification and restriction of the incidental powers that might otherwise have been implied without limitation. I advert to it here, merely as presenting an illustration of the inconvenience of ascribing a binding character to legislative or judicial expositions of the constitution.

The necessity and propriety of means to effect a given object, can rarely be decided except by the circumstances of the moment. Those measures may be indispensable in times of difficulty and pressure, which when the crisis has passed would be injurious and unwise. Laws, which in the early periods of the country were entirely commensurate with the constitutional wants of the government, may in after years become confessedly inadequate to their object.

A plain and important distinction between the laws of a state and its constitution consists in this; that laws are temporary in their character, intended to operate upon interests existing or foreseen, and may therefore be definite in their provisions; while the constitution is to be coeval in its duration with the state itself, is to act upon interests which are not yet developed, and under circumstances future and unknown; and is therefore necessarily general. But with the view of always attaining its great objects, the constitution opens to the legislative discretion, the right of so employing every agency and operating on every interest, not specially prohibited, as may become necessary and proper for the purpose of giving effect to those objects in the varying circumstances of the times and the country. It has been aptly compared to the human skin, which moulded at first to the proportions of infancy, yet dilates, expands and strengthens, till it becomes the appropriate ornament and protection of manhood.

It is to deny to the constitution its conservative faculty, to assert that it can only operate in the manner and with the means which were in the immediate view of those who framed it. It was intended at first for the government of the thirteen states, all of whose interests

were affected by their proximity to the Atlantic; but it was at the same time adapted in contingency to the wants of the immense regions which lie west of the mountains, and which, it was foreseen, might one day be covered by independent states, each of them a party to the Union. Other changes were also to be encountered in the progress of the government, which it was more difficult to define, and equally impossible to provide for. The increase of the country in political strength and the extension of its limits have not been more remarkable, than the revolutions which it has witnessed in the pursuits, the opinions, and the condition of its people. Can it be possible then, that the character of a law at the present moment is dependent on the judgment which was formed of its necessity and propriety under circumstances so different? That law may be necessary and proper for carrying into present execution the powers of the federal government, which no one contemplated in 1783; and a law may now be of doubtful propriety and necessity, for the want of which, even twenty years ago, the operations of government must have been suspended.

The effects too of an erroneous construction of a law are readily prevented or repaired by a new enactment. The legislative body is small, and communication between its members is easy: a few months are sufficient to present the subject to their consideration, and to procure their action in such a form as to render further mistake impossible. Not so with the constitution. It can only be amended by a lengthened and difficult recourse to each of twenty-four legislatures,—by conciliating a large majority of distant communities, which were somewhat disunited in policy at first, and which are every day becoming more and more difficult to harmonize, as new interests spring up, and old ones change in importance. It is incorrect therefore to argue from the policy of adhering to judicial precedents in law, that constitutional precedents should also have obligatory force. It would be a new application of the *Stare Decisis*, and beyond the reason of convenience on which the maxim rests.

Besides, even legal precedents have not strictly speaking a binding character. What is more common in the proceedings of a court of law than an authority overruled? The very titles of the cases, whose validity as precedents has been doubted or destroyed, already fill more than a volume. The whole of the mercantile system of our country has been framed by the gradual destruction of ancient adjudications, and an incorporation of entirely new materials in their stead. As the state of the country, its necessities, its interests have undergone the changes of time, the law has changed with them. The constitutional code of England, resting as it does on the practice of parliament almost alone, has undergone a similar change. Why should the constitution of the United States, the work of freemen "holding large discourse, looking before and after," be fettered in its beneficial operation, or shorn of valuable powers, by the limited views of the limited wants of those who formerly administered the government, or partook of its benefits.

I have been induced to extend these observations further than I at first proposed, because every one must feel, however circumscribed his influence, that he incurs a high responsibility, when he publicly differs on questions relating to the constitution, from the illustrious survivor of those who first expounded it.\*

But whatever may be the proper effect of precedents, whether to control or merely to influence the judgment; when the citizen and the law stand opposed to each other, it is the right and the duty of the court to determine whether the law is or is not in pursuance of the constitution. In the discharge of this, the highest function of his office, the judge cannot be insensible to the importance and delicacy of his position. He will

\* Mr. Madison—see his letter to C. J. Ingersoll, Esq. dated Montpelier, July, 1831.

deliberate carefully before he admits the invalidity of an act, which has been invested with the forms of constitutional legislation by the other departments of the government;—and on the other hand, he will remember that no attacks are more dangerous to the liberties of the people,\* because none are more insidious, than those which proceed from their chosen representatives. But he stands before the constitution as its appointed guardian; and he is unworthy of his eminent station, and blind to its dignity and its duties, if he shrinks before popular excitement, or tolerates legislative usurpation.

It has been recently asserted, that a legislative act may be so framed, as to violate the constitution, and yet to escape a judicial declaration of its invalidity. The character of the distinguished jurist, from whom this assertion immediately proceeded, and that of the enlightened body which adopted his language, should perhaps be taken as sufficient assurance that such a case may exist. I have endeavored without success to imagine one, in which by the appropriate action of a jury, the question of constitutionality may not be presented to the bench for decision. I have been equally unsuccessful in the effort to detect the considerations, which can impart this character of immunity from judicial scrutiny to the case, by which the general remark is illustrated.

“It may be,” it is said,\* “that an act will in its operation and effect be subversive of the principles of the constitution, and yet on its face be superior to all just exception on that ground;”—and the illustration is given that “under pretence of raising a revenue, congress may increase the duties to an amount, which will be prohibitory of importation, and consequently destructive of all revenue from that source.” And so, it might have been added, may a state, under pretence of executing its own inspection laws, lay such heavy duties on imports and exports, as to prevent any article being offered for inspection. But to this it might be answered, that the cases supposed are of such extreme improbability, as to make it unnecessary to consider them, and unsafe to argue from them. Our parts in the business of life, and indeed our most ordinary operations require of us that we should repose a degree of confidence in the integrity and intelligence of the rest of the world. The wayfaring man, as he bends to slake his thirst at the spring, must be content to believe that poison has not been mingled in its waters.

Such acts of legislation, as have been supposed, will hardly be the result of ignorance. An honest legislator may be persuaded to vote for a law, which may be injurious or unconstitutional in its effects; yet he will scarcely consent to conceal his purpose, or artfully to screen it from judicial inquiry: honesty does not affect disguise. But if ever the general congress or the legislature of a state shall become so debased, as to mask the intention and object of its laws, and under a false pretence to commit a fraud on the constitution and the country; that court, which “has never sought to enlarge the judicial power beyond its proper limits, but has never feared to carry it to the full extent that duty required,”† will scarcely hesitate to tear off the mask, and defeat the imposture. The law which subverts the principles of the constitution, cannot be “in pursuance of the constitution” itself. And if in truth, the exception does not appear on the face of the law, but must therefore be deduced from facts; in what part of the country shall we look for a jury which will refuse

to incorporate the facts into their verdict, and thus spread them upon the records of the court?

I have spoken of the constitution as the work of the people: as such, it should be construed. Give to each phrase its known and ordinary acceptation:—interpret the compact as the parties themselves understand it. Be not fearful that the government is too weak:—it is as strong as the people intended to make it. Nor that it is too strong:—a child of popular creation, it lives and moves and has its being, only in the affections and confidence of its parent. Let neither jealousy nor alarm influence the decision. Disregard casuistry, for the people are not casuists. But remembering the spirit, in which it was framed, and which alone can sustain it, a spirit of conciliation and compromise; avoid, if possible, every interpretation, which, had the occasion for its application been foreseen, would have prevented the adoption of the constitution, and destroyed the union of the states. Thus approaching the question, regardless of himself, his popularity or his repose, and mindful only of his country and his oath, let the judge pronounce his decree, and trust the consequences with him who alone can control them.

Suppose, however, that the people of a state or of several states are incurably dissatisfied with the administration of the government, or that they are convinced by their experience, of the impolicy of remaining members of the union, and that they are determined to withdraw from it.—have they not the right? I answer, there is no provision in the compact for such a contingency. In its terms, it is of indefinite duration and force: to withdraw from it is to break it. Such a withdrawal may be effected peaceably; but it can be only, because the other parties to the compact do not feel themselves aggrieved by its violation, or because they find themselves too weak to demand redress.

The Supreme Court is the highest tribunal known to the constitution, and every other depository or representative of the powers of the people is of course bound by its decisions.\* Here resides that central force, which, without impeding the appropriate movements of the rest, compels each to revolve in its appointed sphere, and unites them in a single harmonious system. The happiness and peace of the country depend on its uniform and regulated action. Startled at the possible consequences which its adjudications may involve, many true friends of the union have sought to restrict the limits of its jurisdiction. But as yet, no adequate substitute has been devised; and while the judicial authority shall continue to be exercised with the intelligence, firmness, temperance, and purity, by which it has been heretofore illustrated, no substitute will be required by the people.

But the judiciary may hereafter be corrupt or timid: it may protect the corruption or the ignorance of congress from exposure. and the house of representatives in return may screen the judges from impeachment, or the senate may acquit them on their trial. If all this shall ever happen, it will be labor wasted, to discuss the principles of the constitution, or the rights under it either of people or of states. When corruption has pervaded the entire system, the hour of its dissolution has arrived. The constitution will be no more: its authority, its offices, its protection, its restraints, will all have “melted as breath into the wind,” and passed away.

*Hic labor extremus, longanum hæc meta viarum.*

The powers of government will then revert to the people, from whom they came; and perhaps, after years of revolution and civil war, the spirit of the constitution, propitiated at last by offerings of blood, may return, purified and renovated, to vitalize a new system, and shed its blessings on other generations.

\* Address of the Free Trade Convention to the people of the United States, reported by Mr. Berrien, chairman of the committee for that purpose, October, 1831.

† Address of the Bar of Philadelphia to Chief Justice Marshall, Oct. 1831.

\* See note 2, at the end.

## NOTES.

*Note to page 153.*

In point of fact, most of the States had formerly exercised the right of self-government before the declaration of independence by the congress of '76. Several of them had organized constitutions, which assumed the power of the king to be at an end, and one at least had solemnly asserted her separate independence and sovereignty.

On the 20th of June, 1775, Washington had been commissioned by congress, as commander-in-chief of the army "for the defence of American liberty," and he was instructed to "make it his special care that the liberties of America receive no detriment." That army had been raised by the States, without union, and in a great degree without concert.

On the 21st of July of the same year, Dr. Franklin submitted to the consideration of congress a sketch of articles of confederation. By the second of these articles, the colonies "severally entered into a firm league of friendship with each other, for their common defence against their enemies, the security of their liberties and properties, the safety of their persons and families, and their mutual and general welfare,"—but a reservation contained in the third article declared that "each colony should enjoy and retain as much as it might think fit of its existing laws, customs, rights, privileges and peculiar jurisdictions within its own limits, and might amend its own constitution as should seem best to its own assembly or convention." These articles were to be adopted by the several provincial conventions or assemblies; and the union they established was to continue until a reconciliation with Great Britain, a reparation of injuries by her and a withdrawal of her troops; or on failure of these events, the "confederation was to be perpetual." This plan of government was not finally matured till about three years afterwards; but no one can doubt after reading Dr. Franklin's sketch, that the colonies were already independent communities in fact, and as such competent to enter into league with each other, and severally to regulate their internal government.

In May of the following year, (1776) the same congress declared it "necessary that the exercise of every kind of authority under the British crown should be totally suppressed, and all the powers of government exerted under the authority of the people of the colonies."

Shortly after the recommendation of congress, which accompanied this assertion of the independence of the colonies, and probably in pursuance of it, the state of New Jersey (on the 2d of July) adopted a state constitution, and in the preamble of that instrument, protested that "all civil authority under the king was at an end, and a dissolution of the government in each colony had consequently taken place."

The State of Virginia had almost anticipated the determination of the general congress. On the very day (15th May, 1776,) on which a committee submitted to congress the preamble and recommendation, which have been quoted, a convention of the people of Virginia adopted an unanimous resolution, that having been "driven by the laws of self-preservation from the desire to maintain their connection with Great Britain," they would adopt such a plan of government as would be most likely to maintain peace and order in the colony, and secure substantial and equal liberty to the people." The constitution of the state was adopted on the 29th of June following.

The Virginia convention at the same time instructed their representatives in congress to propose a declaration of the freedom and independence of all the colonies, and to invite the formation of a confederacy between them, "provided that the power of forming government for, and the regulation of the external concerns of each colony, be left to the respective colonial

legislatures." Little did they think, that such a declaration would in after years furnish matter for an argument against their separate sovereignty and independence.

## NOTE 2.

The remarks in the text and at page 10, assume that no revisory power over the acts of the general government has been expressly given by the people to the States. Undoubtedly, it was competent to those who formed the constitution, to have made a different allotment of its powers. The judiciary or executive of the Union, for instance might have been chosen directly by the State governments, so as to give them a virtual control; and such projects were more than once submitted and discussed in the convention. Or, it might have been provided, that questions involving a supposed violation of the compact by the federal government, should be decided in every case, as they must have been under the old confederation, by the legislatures or convention of the States, each being affected only by its own decision. But it seems to me incapable of dispute, that if such a revisory power does now exist, the warrant for it must be found in the constitution itself, not in any mere theory of the government, or any calculation of political expediency. Called by whatever name its friends may select, the right of nullification, the dispensing, or the suspending power, it is nothing else than the highest power of the country. One would hardly think that in a written constitution such a power could lurk unsuspected for more than forty years. Yet there it must be or it does not exist. It must have been there from the beginning too; for since the constitution was adopted, the people themselves have been unable to give it, except by a solemn amendment of that instrument. I am not aware that any one has discovered it there in our days, and unless by a resort to something like the *tolidem literis* construction of my Lord Peter, future patriots will be equally unsuccessful. We have had refinements about government, and appeals to first principles in abundance; but as to the article which recognizes this mighty power of the States, no one has been able "*digito monstrare, ac dicere hic est.*"

From the Journal of the Franklin Institute.

## FRANKLIN INSTITUTE.

*Forty-second Quarterly Report.*

The Board of Managers respectfully submit to the Institute their forty-second Quarterly Report:—

The period that has elapsed since the last quarterly meeting, includes but a small portion of the active operations of the institution.

The Committee on Instruction having no schools under their charge during the spring and summer months have directed their attention to other important objects connected with their appointment, and the Board feel assured, that when the period arrives for communicating instruction, whether by means of a school, or lectures, this department of the Institute will be found efficiently organized, and the Board ventures to express the hope that it will receive, as it will unquestionably merit, the warm support of all the members.

The Library is rapidly increasing,—a number of valuable books having been added during the last quarter.

The Journal of the Institute continues to be an object of solicitude with the Board, and although increasing in extent of circulation, it needs the active exertions of the members to promote its interests. Its value to the mechanic is no longer a subject of theory, but is generally admitted wherever the Journal is known; that it should be more extensively known than it is at present, is certain, and this result can only

be produced by the active exertions of those who are now subscribers. Men of science generally, as well members as others, are earnestly called upon to increase its usefulness by enlarging its circulation, thereby enabling its publication at a reduced rate. The liberal compensation made by the Committee on Publication to the authors of original communications for the Journal, should induce mechanics to contribute more generally the result of their experience or observation.

The activity displayed by the Committee on Science and the Arts, shows the wisdom of the organization given to it by the Institute. Already forty members have enrolled themselves, and its stated monthly meetings have each been attended by more than thirty members. During the intervals between these meetings the sub-committees examine subjects referred to them, and when not acting merely as counsel to inventors, submit detailed descriptive reports on the subjects examined. Those reports are discussed, in the general meetings of the committee, at which they are subject to revision, and the question is taken on their adoption by the general committee.

In relation to the rules and regulations for the award of premiums and medals from John Scott's legacy, now vested by our City Councils in the Franklin Institute, this committee have acted with promptness. The rules reported by them, and adopted by the Managers are herewith presented.

The necessary publication of information to inventors, has been directed by the committee, and made by the Actuary of the Institute.

The committee of the Philadelphia Society for promoting agriculture, heretofore having charge of the Scott legacy, have transferred to the Institute all the models which were received, in consequence of the reference of that legacy to the Society by the City Councils. This is a subject of deep interest to the Institute every mechanic doubtless knows the benefit to be derived from a good cabinet of models, to which he can at all times have free access. It is confidently believed that with proper exertions on the part of the members, ours may in a short time, equal any other in the country. The Board feel constrained to bring this subject before the members, and to urge upon each the necessity of contributing all in his power to the accomplishment of an object so desirable.

Since the last meeting of the Institute, a letter has been received from M De Molon, Secretary of the Polytechnic Society of Paris, covering a diploma, by which each member of the Franklin Institute is constituted a corresponding member for life, of that Society. The diploma is herewith submitted. Among the benefits to be derived from this membership, the chief, perhaps, is, that the Polytechnic Society pledge themselves to give information to their corresponding members, in regard to mechanical subjects which may be objects of inquiry, and to have patents taken out for them.

The monthly meetings, of the proceedings of which the pages of the Journal contain regular reports, continue to gain favour with the members. The last was very well attended, notwithstanding the lateness of the season. The Board would recommend that the plan adopted last year be again followed this, namely, to dispense with these meetings during the months of July and August.

(Signed.)

ALEXANDER FERGUSON,  
WILLIAM HAMILTON, *Actuary.* *Chairman.*

**LIMESTONE.**—We stated last week that Limestone of an excellent quality had been discovered on the Poor House Farm, in this county. It, however, turns out to have been a shameful hoax practised upon us by persons who might have been better employed.—*Miner's Journal.*

## PHILADELPHIA, GERMANTOWN, AND NORRISTOWN RAIL ROAD.

Report and estimates, of the Engineers of the Philadelphia, Germantown and Norristown Rail Road Company.

*The President and Managers of the Philadelphia, Germantown and Norristown Rail Road Company.*

GENTLEMEN,—

Upon a careful examination of the country between Germantown and Norristown, with a view to the continuation of the Rail Road from its present termination on the eastern side of the Wissahickon creek, to a point near the mouth of Stony creek, above the borough of Norristown, it is found that upon crossing the ravine of the Wissahickon at an elevation of 105 feet, the line of road must be curved to the Northward and made to pass on the brow of this stream to the extent of upwards of four miles. In the whole of this distance there is no point short of the Perkiomen turnpike near the foot of a spur of Barren-hill, where the least opportunity is afforded to depart upon a proper course, or upon ground that is at all favourable to the location of an eligible line of road.

After passing out of the valley of the Wissahickon, the surface of the country is undulating, and intersected with spurs and ridges, which, in the endeavour to avoid deep cutting and embanking, will require many points of curvature, varying from 900 to 3,000 feet radius: the general grade being from 20 to 45 feet per mile for the whole distance, up to the crossing of Plymouth creek near the turnpike road:—the remaining distance to Norristown presents more favourable ground, and may be graded at a moderate expense.

You will perceive, upon reference to the Map and Sections which accompany this report, after crossing the Wissahickon, which can only be done at much cost, the line of direction up this stream involves many aberrations from the shortest course to Norristown. This would be a matter of minor importance if the ground was favourable to the formation of a good road; but this is not the case; for the whole extent of this stream is deeply indented and rugged in the extreme; and although the estimate for the execution of this portion of the line is put down at too low a rate, the contingent expenses attendant upon the grading and ultimate preservation of the road will be found very heavy and vexatious.

The summit level near Germantown is 161 feet in ascent above the depot and level of the point of termination at Norristown; and in order to grade the road properly from this point, it will be necessary to descend in passing up the ravine of the Wissahickon, from this high level, to meet the general surface of the country beyond, and then, to follow its undulations by various abrupt grades. In this ascent of 161 feet, it is found, that no ground can be attained, after passing the Wissahickon, for the passage of a rail-road, unless the ravine of this stream is pursued with all its disadvantages in point of direction and difficulty of execution.

To obviate the disadvantages presented by the pursuit of the line above described, the valley of the Schuylkill presents more favourable properties in every point of view. It is but three miles from a point near Weiss' (marked A., see map) to the Wissahickon, just above its junction with the Schuylkill at Robinson's mill, where this stream may be crossed at an elevation of 60 feet, being less than half the height of the crossing the same stream at the end of the present road. From Robinson's mill the whole line may be located, nearly upon a level up the bank of the Schuylkill, on the eastern side, passing the town of Manayunk, at an elevation of 45 feet, and pursuing a grade, varying from ten to twenty feet per mile, through favourable ground to Flat Rock, the Soap Stone Quarries, Spring Mill, and from thence to Norristown along the bank of the old Union canal. At Spring Mill, a branch line of about

two and a half miles may be made up *Walnut Hollow* to the Lime Kilns, in and about Plymouth, at a cost not exceeding \$10,000 per mile, as the ground is very favourable and upon a gentle acclivity; a part of this branch line may be used for the marble quarries of Hitter and Dager, which are not more than a mile and a half from Spring-Mill. The lime kilns below Norristown, together with the marble saw-mills and soap stone quarries along the valley of the Schuylkill, are in immediate contiguity with this line, and will afford, in connection with the various mills and water powers, an increasing and never-failing source of traffic and trade to the city, which is now carried by every disadvantage of transhipment.

The increase of population and machine power on the Schuylkill is immense, and the produce of the various manufactures and minerals which must find vent through this great channel, will always afford an abundant and profitable trade to a rail road communication with the heart of the city of Philadelphia.

The general difference of level between the Schuylkill valley route, and the route from Germantown up the Wissahickon is from 71 to 72 feet being in favour of the Schuylkill line, which is not more than 43 feet at its greatest point of elevation. The curves are double the radius and much less frequent: The length of the road will be shorter by two and a half miles, and the cost of grading at least \$5,000 dollars less.

The effective power of locomotive engines upon the Schuylkill line, will be greatly increased by the great disparity in its low grade and straight course, having few curves, and these of large radius; the line from Robinson's mill near the mouth of the Wissahickon has been explored in such a manner as to require but little labour to stake out the true line, and to put it under contract immediately leaving the remainder from that point down to Weiss', which, it is here necessary to remark, is a straight line and of easy execution, to be completed next season, or, whenever an act of the legislature of the State may grant authority for the same.

Upon an examination of the ground between the mouth of the Wissahickon, and the present termination of the road at or near Germantown, it is found to present many insuperable objections, both as to abruptness of surface, high grade, and great departure from a straight or true course. Upon reference to the map, the deformity of such a connection will be evident from a glance at the plan and profiles. The Schedules marked A and B, shew the estimate of the cost of both routes in detail, as well as the distances between the various important points on each. Upon the score of damages, it may be proper to remark, that the Schuylkill valley route from the mouth of the Wissahickon, will pass through a range of country known as the second bench or slope of the river bank, where cultivation is not so practicable as to create a high price for land, and where the proprietors would be more willing to release for road purposes than in the interior where many farms would be cut to a great disadvantage, and an increase of *road outlets* would have to be resorted to.

In conclusion, it may be seen that independently of the necessity of making Germantown a point in the construction of a rail-road to Norristown, a line of the most favourable character, both as to grade and proper direction can be had, at a moderate cost, through a thriving manufacturing district; and where enterprise may meet with reciprocity, and put it out of a rival spirit to interfere by competition with this great public improvement.

The best ground should be taken at once, and no doubt's ought to rest on the choice. Enough is shewn by the selection of the valley of the Schuylkill, that it is the shortest and most practicable line, and that a common junction may be most advantageously made

with the proposed Rail-road to the town of Reading.

Respectfully submitted by

Your obedient servants,

[Signed,] WILLIAM STRICKLAND, c. x.  
HENRY R. CAMPBELL, c. x.

Philadelphia, July 15th, 1833.

#### SCHEDULE A.

Estimate of the Line from the Borough of Norristown along the Schuylkill Valley to the Rising Sun Lane, near Weiss' Tavern: Distance 14 miles.

Section No. 1.—Length 76.50 chains.	
Total Estimate,	\$6,758 00
Section No. 2.—Length 80 chains.	
Total Estimate,	9,448 50
Section No. 3.—Length 79.50 chains.	
Total Estimate,	18,817 25
Section No. 4.—Length 79.50 chains.	
Total Estimate,	,5725 37½
Section No. 5.—Length 79 chains.	
Total Estimate,	6,206 75
Section No. 6.—Length 76 chains.	
Total Estimate,	6,482 12½
Section No. 7.—Length 70 chains.	
Total Estimate,	9,217 12½
Section No. 8.—Length 80.50 chains.	
Total Estimate,	17,871 12½
Section No. 9.—Length 79.50 chains.	
Total Estimate,	30,457 25
Section No. 10.—Length 78.50.	
Total Estimate,	15,715 50
Section No. 11.—Length 70 chains.	
Total Estimate,	35,798 62½
Section No. 12.—Length 63 chains.	
Total Estimate,	18,497 87½
Section No. 13.—Length 63 chains.	
Total Estimate,	15,228 00
Section No. 14.—Length 63 chains.	
Total Estimate,	4,140 75

Whole cost of 14 sections of Schuylkill line, \$200,283 50

#### SCHEDULE B.

Estimates of the Northern Line from Germantown to Norristown along the valley of the Wissahickon Creek.

Section No 1.	
Total Estimate,	\$38,650 35
Section No. 2.	
Total Estimate,	13,620 05
Section No. 3.	
Total Estimate,	22,728 80
Section No. 4.	
Total Estimate,	24,956 70
Section No. 5.	
Total Estimate,	27,575 48
Section No. 6.	
Total Estimate,	41,934 35
Section No. 7.	
Total Estimate,	32,606 67
Section No. 8.	
Total Estimate,	23,760 41
Section No. 9.	
Total Estimate,	16,729 35

Total for Grading, 242,582 16  
Add Wissahickon bridge, 43,000 00

Grand Total, \$285,582 16

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 11. PHILADELPHIA, SEPTEMBER 13, 1834. NO. 349.

## FIRE DEPARTMENT.

At a numerous meeting of the Firemen of the city and county of Philadelphia, held agreeably to public notice, at the Military Hall, on the evening of Tuesday, September 2d, 1834, GEORGE W. TRYON, of the Vigilant Engine Co. was appointed President.

PETER FRITZ, of the Perseverance, and MORDECAI L. GORDON, of the Philadelphia Hose Company, Vice Presidents.  
John Allen, of the Southwark Engine, and Charles S. Cope, of the Phoenix Hose Company, Secretaries.

The call of the meeting having been read, Mr. Benjamin Matthias, from the committee of five, appointed for the purpose at a former meeting, presented the following report, which was read and unanimously adopted, viz.

### *Report of the Committee.*

At a public meeting of Firemen of the city and county of Philadelphia, held at Ryckman's Chestnut street, on the evening of March 4th, 1834, William P. Smith, Esq. in the chair, and William D. Sherrard, and Charles B. Smith, acting as secretaries:—

It was on motion,

Resolved, That a committee of five persons be appointed to inquire and report as to the expediency of establishing an institution for the relief of sick and disabled Firemen.

Whereupon, the following named persons were duly appointed as the committee:

CHARLES A. SMITH,	of the Phoenix Hose Co.
J. B. LANCASTER,	Southwark Hose Co.
WM. P. SMITH,	Washington Fire Co.
CHARLES SCHAEFFER, Jr.	Resolution Hose Co.
BENJAMIN MATTHIAS,	Philada. Fire Co.

The committee appointed under the foregoing resolution adopted by the Firemen of Philadelphia, in March last, respectfully submit the annexed report of their inquiries and deliberations.

Soon after the appointment of the committee, measures were taken for ascertaining whether institutions of the character proposed in Philadelphia, had been formed by the Firemen of other cities; with this view a letter was addressed to James Gulick, Esq. chief engineer of the Fire department of New York, from whom information was obtained of the existence in that city, of an institution for the relief of sick and disabled firemen, on the most extensive scale. The committee were politely furnished with a number of interesting particulars, some of which it may be proper to notice in this report.

In New York, the fire department is an incorporated body, of which each individual member of every company, is a component part. Each company chooses annually two representatives, who compose a Board for the transaction of business relating to the department, and by this body, nine trustees are chosen, who are intrusted with the whole business of superintending the fund for the relief of sick and disabled firemen. All firemen, while doing duty as such, and being indigent, all who have been disabled while doing duty as a mem-

ber of either of the companies, and all indigent persons who have served ten years as a member of the department, are entitled to relief from this fund, at the option of the trustees. By this it will be seen that the institution covers the whole field of the department, especially as the widows and orphans of firemen are also liberally provided for under the act of incorporation.

The fund in existence for the prosecution of this laudable object, has been established, and is yearly increased by the moneys arising from chimney fines, from the penalties exacted from those who kept unlawful storages of gunpowder, from donations from fire and insurance companies and citizens, from a Ball given annually, and from other minor sources. The nett receipts of the Ball given by the department in the Bowery Theatre, in 1833, were alone over 1,000 dollars.—The whole amount of the fund in that year was about \$20,000. This has been permanently invested, and by the act of incorporation cannot be impaired, the interest and current receipts only being used for benevolent purposes. The amount of these resources, however, in the year mentioned, were not less than \$7,156, a sum capable of being made extensively useful, in careful hands, to the limited number of persons for whom it is designed.

Further light upon the character of the benevolent association of our brethren of New York, may be obtained by referring to the annual report of the trustees of the fund, showing in what manner their resources have been expended. During the year 1833, it appears that there were 127 widows of firemen on the pension list, each of whom received from the trustees, twenty-five dollars in money, per annum, and two loads of firewood, during the winter season, besides other assistance graduated according to their necessities. There were also under the care of the trustees 680 orphan children, all of whom were furnished with clothing, and entered in some of the schools of the city. No applications appear to have been made from firemen themselves, and consequently, during the year in question, the charities of the institution were confined exclusively to the widows and orphans of firemen.

The committee feel it their duty to state, that they have been assured by members of the fire department of New York, that the association here alluded to, has been found extremely useful, and in many cases has been the happy means of relieving distresses, which perhaps, could have been reached in no other manner. There are, no doubt, in that large and populous city, many families, left widowless and fatherless by the decease of an industrious husband and father, who would promptly reject relief tendered by the hand of the public, but who would cheerfully accept the aid offered by the companions and friends of their lost associate. Coming from such a source, it would come not as a charity, in the cold sense of the word, but as a testimony of regard for the merits and services of one esteemed and beloved; it would come as an offering legitimately due, and not as a charity.

One of the committee, during a late excursion to Boston, took occasion to inquire into the nature of the arrangements existing in that city, for the relief of disabled firemen. He was made acquainted with the character of an incorporated society, under the title of the

"Charitable Association of the Boston Fire Department," the government of which is vested in a board of trustees, chosen annually by the members. Every fireman is entitled to become a member of this association, by paying into the hands of the treasurer the sum of one dollar per annum. Funds are raised from other sources, at the option of the trustees. Firemen who are disabled at fires, or are injured in health, so as to be incompetent to attend to their ordinary business, receive nine dollars per week, and in case of death, the trustees have power to extend relief to their families, should they be in destitute circumstances. The operations of this institution also, the committee learn, have been attended with the most advantageous results.

These references may suffice to show that whatever of public spirit, energy and enterprise, may have existed and continues to exist among the firemen of Philadelphia—and the committee are not of those who would underrate their zeal and benevolence—it is evident that in respect to the subject under consideration, we are far behind our brethren of other cities. Perhaps there may have been less necessity in this city than elsewhere, for the institution of a benevolent association. As firemen, we are differently constituted; we are under no municipal control, and receive no municipal reward, and we have in our city such a number and variety of benevolent institutions, that if there have been any cases of extreme distress, they have no doubt been reached by one of them. Besides this, one or more of our fire companies have formed, within themselves, benevolent associations designed to meet this object and in others, it has been the practice for years, even without the existence of any code of laws, to extend relief to suffering fellow members. These facts and circumstances have no doubt interfered considerably with the organization of a general association, such as exists in New York and Boston, though it has been a favorite project with many firemen for years.

Still the committee are impressed with a belief that there is a necessity for a more efficient organization for benevolent purposes among us. The business of relieving firemen in distress, should devolve upon firemen. To those with whom we are associated for years in acts of perilous benevolence, we naturally become closely attached. Though we may have been neighbors before, the intercourse of firemen should make us friends and brothers. If any are injured in the arduous service, prostrated in health, or disabled by casualties to which we are all eminently liable; it is just that efficient means for relief should be found in the hands of those who are capable of sympathizing in their afflictions. Relief extended to a fireman by a benevolent stranger, is not the same as relief tendered by the hand of a brother fireman—one who has himself, in all the inclemencies of a winter storm, in all the fury of a northern blast, left his comfortable chamber at the cry of distress, and in the midst of the raging element, battled the progress of the devouring flame, that may be consuming the little all of the hard-working mechanic, and endangering the safety of his family. Such an almoner visits the bedside of a fireman like an angel of mercy—he comes not to provide for temporal wants only, but to extend the hand of friendship to a brother—to sympathize in his troubles—to soothe, as far as may be, his distresses—to give encouraging words of consolation to his afflicted family, and to show that human nature, defective as it may be, is not insensible to the ties of association and friendship.

The committee, therefore, would strongly recommend the organization of an institution for benevolent purposes, adapted to the peculiar arrangements of our fire department. The plan of the institutions here alluded to, cannot, it is evident, be closely followed, but it is confidently believed, an association may be formed, keeping in view some of their general designs, which will be much less complex in its character, and at the same time, equally as efficient in its charities. The

committee are of the opinion that the association should consist of firemen generally, without regard to companies—that each member should pay a small sum, say one dollar per year; and annually meet and elect a Board of Managers, intrusted with the investment of the funds, and the disposal of the interest arising therefrom. That to establish something like a capital, means should be taken for enlisting the feelings of the public in its behalf, and that contributions should be solicited from the fire companies respectively, and from the various insurance companies in the city and county.

It is suggested also, that in addition to providing relief for disabled firemen, their widows and orphans, provision should be made for those persons, not firemen, who may be accidentally injured by fire apparatus.

Some instances of this kind have lately occurred in our city, and it has been a general matter of regret, that no fund has been in existence for their relief.

The committee think proper to remark, that acting under a presumption that an institution of this kind would be speedily organized in this city, the firemen who took part in the late fireman's ball—at one of the primary meetings in relation to which, this committee was appointed—directed the nett proceeds to be held in reserve for such an object. This sum, amounting to about thirty dollars, will be paid to the Treasurer of this association as soon as it may be organized.

The committee have appended a preamble which may serve, in case the suggestions in this report should be adopted, as a declaration of the nature and object of the association, leaving the general details to be prepared by those who think proper to unite in promoting this object.

All which is respectfully submitted.

BENJN. MATTHIAS,  
CHARLES SCHAEFFER, Jr.  
W. P. SMITH,  
JACOB B. LANCASTER,  
C. A. SMITH,

Committee.

The committee also presented the following preamble to a Constitution to be framed hereafter, which was adopted by the meeting, and the gentlemen present requested to affix their signatures to it, on the adjournment of the meeting.

#### PREAMBLE.

The Firemen of Philadelphia being rendered eminently liable to accident and impaired health, in consequence of the danger and exposure to which they are subject in the ordinary discharge of their duties, it is considered proper that an association should be formed for the aid of those who in addition to these misfortunes, suffer from a want of means to provide comfortably for themselves and families. By the undersigned, members of the Fire Department of Philadelphia, it is therefore resolved to form an association for mutual aid and assistance, under rules and regulations to be hereafter adopted.

On motion, Resolved, That a committee, to consist of one member from each Fire and Hose Company, be appointed to procure additional signatures to the above preamble. The following gentlemen were accordingly appointed.

Assistance Engine,	Sylvester Green,
Columbia do	William Cressman,
Delaware do	Horatio G. Rowley,
Diligent do	George Hall,
Fairmount do	Andrew Roat,
Franklin do	John W. Ryan,
Globe do	Hugh Clark,
Good Intent do	Howe Keith,
Good Will do	Samuel Overn,
Hand in Hand do	William B. Whitecar,
Harmony do	Emmer Kimber, jr.

Hibernia Engine,	James M'Donald,
Hope do	Jacob J. Snyder,
Humane do	George F. Goodman,
N.Lib.No.1.do	Peter A. Keyser,
Pennsylv'a do	Samuel P. Griffiths,
Philadelphia do	James S. Pringle,
Reliance do	Thomas H. Whitney,
Relief do	Anthony M. Buckley,
Southwark do	John Allen,
U. States do	Seth P. Halloway,
Vigilant do	Ebenezer Mustin,
Washington do	Robert E. Hackett,
Weccacoe do	Charles M. Sandgram,
America Hose,	William Jackson,
Diligent do	George M'Gee,
Fame do	J. J. Esling,
Good Intent do	John Leadbeater, jr.
Hope do	Thomas B. Florence,
Humane do	Peter Parker,
Marion do	William T. Flanagan,
Neptune do	John Kibler,
Niagara do	John Oliver,
Persever'nce do	Jacob Loudenslager,
Philadelphia do	Joshua V. Johns,
Phœnix do	Peter C. Ellmaker,
Resolution do	William M'Gowen,
Schuylkill do	John K. Murpley,
Southwark do	Henry Caron,
U. States do	William F. Forepaugh,
Washington do	Charles J. Boulter.

Resolved, That the committee of five be added to the above committee, and that the joint committee be authorized to accept of nominations from such companies as are not represented, and to fill all vacancies in their own number.

Resolved, That the thanks of this meeting be presented to the committee for the able and satisfactory report made by them this evening.

Resolved That the proceedings of this meeting be published in all the daily papers.

GEORGE W. TRYON, President.

PETER FRITZ,	} Vice Presidents.
M. L. GORDON,	
John Allen,	} Secretaries.
Chas. S. Cope,	

# BANK OF THE UNITED STATES.

At the General Triennial Meeting of the Stockholders of the Bank of the United States, held at their Hall, in the City of Philadelphia, on Monday, the first day of September, 1834.

ROBERT RALSTON, Esq. was called to preside, and

JOSEPH HEMPHILL, Esq. appointed Secretary.

Nicholas Biddle, Esq., the president of the Bank, on behalf of the Board of Directors, submitted to the Stockholders, in compliance with the 13th article of the 11th section of the Charter of the Bank, "an exact and particular statement of the debts which shall have remained unpaid after the expiration of the original credit for a period of treble the term of that credit, and of the surplus of the profits, if any, after deducting losses and dividends."

He also presented a general view of the present situation of the Institution, showing the statement of its liabilities and resources,

Whereupon, the following resolutions, moved by Joseph R. Ingersoll, Esq., were read and unanimously adopted:

Resolved, That the thanks of this meeting be, and they hereby are, presented to the President of the Institution, and the Board of Directors, for the fidelity and skill which they have manifested in the management of the concerns of the Bank.

Resolved, That the Stockholders feel continued and

undiminished confidence that the further administration of the concern, of the Bank, will be conducted with wisdom and zeal by those who have heretofore so satisfactorily directed them: and that the last resolution adopted at the triennial meeting of the Stockholders, held on the first day of September, 1831, which authorizes the President and Directors to make application for a renewal of the Charter, and to accept such terms of renewal as they may consider just and proper, is hereby revived and continued.

On motion of Richard Price, Esq., the proceedings of the meeting, signed by the Chairman and Secretary, were ordered to be published, and the meeting then adjourned.

Signed ROBT. RALSTON, Chairman.  
JOSEPH HEMPHILL, Secretary.

## HEAT OF THE ATMOSPHERE BY THERMOMETER IN PHILADELPHIA ALMSHOUSE.

1834.	Sun rise.	9 A. M.	Meridian or noon.	3 P. M.	Winds and Weather.
Marc.1	32	39	45	51	SW and cloudy
	236	42	48	46	NW to SW, and clear
	326	27	28	30	NW and cloudy
	429	31	42	48	SW and clear
	533	42	52	54	SW and hazy
	647	50	60	62	SW to NW, some rain
	744	46	54	56	ENE and hazy
	846	52	62	69	SSW, gales with light rain
	937	39	43	44	NW and clear
	1027	30	36	39½	SW and clear
	1136	37	44	49	NNE, some light rain
	1245	48	55	58½	WSW and cloudy
	1335	39	45	48	NW and clear
	1434	39	51	50	NNE and cloudy, some rain
	1533	37	44	47	SE, with some rain
	1637	40	47	50	NNE and cloudy
	1734	42	52	52	NE and cloudy
	1838	43	54	60	NE to SE, and clear
	1950	56	68	71	SSW and cloudy
	2038	64	73	74	South, strong gales
	2143	45	45	44	NW, strong gales
	2223	24	27	31	NW, strong gales
	2326	33	44	48	East to SE
	2438	44	51	53	NW and clear
	2540	38	42	44	NE, steady rain
	2633	38	42	44½	NW and clear
	2732	39	45	52	SW and hazy
	2835	42½	55	60	Easterly and cloudy
	2947	55	58	65	Southerly and cloudy
	3026	30	36	41	NW gale and clear
	3128	37	45	49	NW to NE and SE, clear

## LAND TITLES.

(Concluded from page 153.)

## PART V.

### Of Surveys, and Evidence.

The statute of 33 Edward 1, statute 6, entitled "An ordinance for measuring of land," is reported by the judges, as extending to Pennsylvania. It begins thus.

"When an acre of land containeth ten perches in length, then it shall be in breadth sixteen perches; when it containeth eleven perches in length, then it shall be in breadth fourteen perches and an half and three quarters of one foot; &c. 160 square perches being the English statute acre, or as it is commonly termed in Pennsylvania, an acre, neat, or strict measure."

But it is to be observed, that the customary acre of Pennsylvania, where six acres in the hundred are allow-

ed for roads and highways, &c. by the commonwealth, consists of one hundred and sixty-nine perches and six tenths of a perch, which produce the acre of land, with its usual allowance.

Many of the laws cited in the preceding part of this note, regulate surveys in several respects; and in the cases already noted, many points on that subject will be found. It will not be necessary to repeat them here.

By an act, entitled "An act to prevent trespasses and waste from being committed upon the lands of absent persons, and upon vacant and unappropriated lands," passed the 17th of March, 1780, (chapter 885,) printed in M'Kean's edition, page 331, and limited to nine months, it was enacted (section 4.) that during the continuance of the act, no surveyor or other person, shall presume to measure, survey, or locate, any right or claim to land, unless he be authorized so to do by the special license of the president or vice president in council, under the less seal, who, upon due proof of the equity thereof, may grant the same; and every survey, location or appropriation of land, made without such license be first obtained, and unless a return of the survey thereupon made, shall be made into the office of the secretary of the Supreme Executive Council within six months after the same shall be made, shall be utterly null and void.

§ 5. And in order to correct as far as may be, the mischiefs which have arisen, or may arise to the commonwealth by clandestine surveys and undue appropriations of vacant or waste lands made since the 4th of July, 1776.

§ 6. No survey or appropriation of vacant or unappropriated lands, which has been made within this state since the 4th day of July, 1776, shall be available in law or equity, or shall be considered as vesting any estate in such land, unless the date, and other particulars of the same, together with a clear description of the right or claim upon which it was made, shall be entered in the office of the secretary of the Supreme Executive Council; within the times herein after limited, that is to say, in case such survey has been made in the counties of Bedford, Northumberland or Westmoreland, before the 1st day of January next, and in case such survey has been made in any other county, before the 1st day of November next.

§ 7. Such entry in the office of the said secretary, shall not give any relief or benefit to any person to which he or she was not entitled before the passing of this act.

By an act passed 4th of September, 1794, (chapter 1689,) all returns of surveys, which have been actually executed since the 4th of July, 1776, by deputy surveyors, whilst they acted under legal appointments, shall be received in the Land Office, although the said deputies may happen not to be in office, at the time of such return or returns being made; Provided, That no returns be admitted, that were made by deputy surveyors who have been more than nine years out of office.—And,

By "an act to authorize the granting of patents on surveys heretofore made and received in the Land Office," passed the 2d of April, 1811. It shall be lawful for the officers of the Land Office to issue patents in the usual manner on surveys made, which have been heretofore returned and received by the Surveyor General, notwithstanding any such survey may contain an excess of more than ten per cent. above the number of acres mentioned in the warrants respectively; Provided, That no such patent shall be construed to defeat or affect the right or title of any other person or persons which may have accrued by improvement or otherwise to any such excess.

In the Lessee of Henry Drinker v. William Holliday, jun. Huntingdon May, 1796, before Shippin and Yeates justices (MSS. Reports.) The following general doctrine was delivered in charge to the jury.

When a survey has been made, which is supposed to, be injurious to another claimant, he ought to file his caveat, or institute his suit in a reasonable time, or account satisfactorily for his neglect. Failing herein, he shall suffer for his negligence; and particularly so, where his adversary has proceeded to complete his legal title, or bestowed considerable labor in improvements.

Every survey will be presumed to be made by the consent of the applicant, unless the contrary appears; and where his dissent does appear, he must make an early complaint to the Surveyor General; or, in his default, to the Board of Property. If he is remiss herein, his negligence will operate strongly against him; and under many circumstances, he will be supposed to have abandoned his objections to the survey.

When a survey has been completed on the ground, a new survey cannot be made without new directions; because the authority of the deputy surveyor is determined; when such fresh powers have been given, no additional survey shall affect a fair and honest survey, prior thereto, though made on a subsequent warrant or location. The intervening right shall be protected.—The consequences of squeezing out titles obtained *bona fide*, after the claim of an early warrant has been satisfied, by opening the lines already closed, is highly injurious to society; and the measure is unjust in itself.

It is the duty of a deputy surveyor to return the survey made by him to the proper office. His default herein shall not be imputed to the person in whose favor the survey has been made. The latter depends on the actual lines on the ground, which in fact constitute the survey: the field notes, draft or return are mere evidences of it. See Meade's lessee v. Haymaker, ante. and 2 Binney, 12, 13—*infra*.—And see 2 Binney, 106.

These are general rules; like all general rules, they may admit of some exceptions under special circumstances.

So, at Washington, October, 1800, before Yeates and Smith, justices; in the Lessee of Robert Porter v. James Ferguson and Abraham Feagly, in ejectment for 139 acres of land on Mingo Creek waters, (MSS. Reports.)

The plaintiff claimed under an entry made by Francis Hall, of 400 acres on Monongahela river, with the Virginia Commissioners, on the 13th of November, 1779, on which a survey was made by Nevil and Ritchie of 269 acres 136 perches strict measure, on the 4th of July, 1785. The plaintiff set up another survey of 139 acres made by Thomas Stokely, and which he alleged was founded on a warrant of re-survey, or order of the Board of Property, but which were not produced.

The court said, that no benefit could be derived under the latter survey, unless by showing the warrant or order on which it was grounded. A survey having been once made, a new authority became indispensably necessary to justify a second survey. The legal presumption is, that the first survey was made with the full consent of the party, and shall conclude him unless fraud or improper conduct can justly be ascribed to the deputy surveyor, and in such case the complaint must be followed up in a reasonable time; his laches will otherwise postpone him. These principles have been often laid down, and conduce to the peace and safety of the country; they were delivered particularly in the cases of Drinker's lessee v. Holliday, and Hollingshead's lessee v. Pollock, tried at Huntingdon, May assises, 1796, and cannot be departed from. The plaintiff suffered a nonsuit.

In the Lessee of Steele and wife v. Finlay, at York, April, 1801, before Yeates and Brackenridge. Justices, (MSS. Reports.) The court laid it down as a clear rule of law, that if a person obtains a second survey on a warrant which has been once filed, he thereby abandons his first survey, if the same was not returned into

the Surveyor General's office, before an adverse survey is made, provided the same was done with his consent or procurement; and every survey shall be presumed to be made with the full consent of the party, unless the contrary appears.

And, in the *Lessee of Hunter v. Meason and Wells, Fayette, October, 1804, before Yeates and Smith, J. (MSS. Reports.)* The court said, that upon the most precise and descriptive warrant or application, it is the duty of the owner to show the lands intended thereby, to the surveyor, and to furnish provisions and chain carriers, or pay the expenses thereof. If a survey is made with which he is dissatisfied, he should without delay complain to the Surveyor General, or Board of Property, and pray for redress; otherwise the survey will conclude him. But it is certainly true, that the deputy surveyor may execute such warrant or application in his hands, without the personal attendants of the owner or any one in his behalf. Should he do so, the owner becomes subjected to his acts, as he thereby discharges the office of an agent for his principal, unless there is some fraud in the case. If the surveyor shall refuse to execute the survey on the lands being shewn to him, and an offer to pay the expenses attendant thereon, a complaint should be made in a reasonable time to the Board of Property, who will direct a special order to issue; and the deputy surveyor will be subjected to a removal from office. These principles are founded in good sense, public convenience, and a regard to the common safety, and are the common law of the country.

*Lessee of Henry Drinker v. Samuel Hunter, Northumberland, October, 1796, before Yeates and Smith, Justices. (MSS. Reports.)*

Where lands have been patented, and the titles thereof are free from suspicion, any subsequent survey of the same lands, under warrants or location, are merely void in themselves unless there are strong circumstances of an antecedent possession in the adverse party, or in the instances of surveys made in consequence of the decision of a court of law, on a question tried between the parties, or order of the Board of Property. The improper practice of some surveyors, in making such surveys, and afterwards omitting to mention the former surveys in their returns, has been the great source of uncertainty of right, litigation and uneasiness, under which Pennsylvania has long laboured.

On general principles the party is concluded by the lines of his patent unless special circumstances exist to form an exception to the common rule. *Lessee of Davis v. Butterback, Franklin, April 1797, same judges.—(MSS. Reports.)*

A survey adopted by the Land Office though not made by the regular officer, may be read in evidence. *Lessee of Shields v. Buckingham, Westmoreland, May, 1797, before Yeates and Smith, Justices, and Lessee of Funston v. M'Mahon, Northumberland, October, 1797, before M'Kean, C. J. and Yeates, J. (MSS. Reports.)*

In the *Lessee of John Yoder, v. William Flemming, at Millin, May, 1798, before Shippen and Yeates, Justices, (MSS. Reports.)* The only question which occurred, was, whether the pretensions of a party shall be determined by the courses and distances expressed in the return of survey, or by the marked trees and lines actually run?

The court in their charge, observed, that it was almost impossible to doubt on the subject. The natural or artificial boundaries of a survey have uniformly prevailed, and there is absolute certainty when a right line is followed from one marked corner to another; but the best surveying instruments will vary in some small degree. For the sake of public convenience, and individual safety, all the lands comprised within certain marked lines, only proceeding from marked and known corners, will pass to the grantee in a deed. Any surplus measure, or variation in the courses and distances

set out, will not vitiate the instrument. The lines actually run on the ground are the true survey and appropriation of the land contracted for. But the return of survey is only evidence thereof, and shall be controlled by the actual survey. This point has frequently been determined; and particularly in the case of the *Lessee of John Walker v. Jacob Purry and Michael Krehl, tried at Nisi Prius, at Carlisle, before M'Kean, C. J. on the 26th of November, 1790, where several mistakes had been made in the survey.*

As to the time when a survey was made, it was held in *Dawson's Lessee v. Laughlin, Allegheny, May, 1799, before Yeates and Smith, Justices, (MSS. Reports.)* that parol proof could not legally be given to ascertain it; but that a copy of the survey was the best evidence of it, which it was always in the power of the party to procure; and great mischiefs would arise from the relaxation of the rule, by receiving unwritten evidence on this head.

With respect to the extension of the lines of a survey; In the *Lessee of Nicholas and others v. Hollday, at Huntingdon, May, 1802, before Yeates and Brackenridge, Justices, (MSS. Reports.)* Plaintiff claimed under a warrant to Edward Nicholas, for 150 acres; and a survey thereon of 199 acres and 17 perches, made 25th of May, 1765, by Samuel Finlay, who acted under Richard Tea, the surveyor of the district. Finlay surveyed four other warrants at the same time, amounting in the whole to 550 acres, he, in the month of July following, extended the lines of the different surveys in his drafts, by order of Tea, who made pretensions to the adjoining lands.

The Court said, that the practice had been for surveyors to run and mark the boundaries on the ground, and afterwards calculate their contents. They could then add to, or diminish the quantities surveyed on the closing lines. But if any great mistake had been made careful surveyors usually went on the ground again, and made new surveys, obliterating their former marks. After a survey was returned into the Surveyor General's office, the lines could not be extended, without a new warrant or order of survey, their former authority being *functus officio*: but before such return, the surveyor might extend the lines of a survey made by mistake, where no injury resulted to other claimants. And see *Biddle's Lessee v. Dougal, to the same effect.—2 Binney 37, and Evans v. Nargons, ib. 55.*

Where a survey has been made on a warrant generally descriptive, and a re-survey is made thereof by order of the Board of Property, whereby part of the old survey is omitted, and new lands added, part whereof have been surveyed under intervening rights, the title cannot prevail as to such omissions, or additions, injurious to other persons. But as to such parts of the land as were comprehended in the old survey, and were not dropped or abandoned by the re-survey, and as to such additions as were not theretofore surveyed under other rights, the title must prevail. *Addleman v. Way, Huntingdon, May, 1805, before Yeates and Smith, Justices, (MSS. Reports.)*

It is not essential to the validity of a survey of a body of lands, that the lines of each tract should be marked on the ground. It is sufficient if the surveyor has marked lines enough to identify the particular tracts. But in such case the surveyor is not entitled to the full compensation given in law. *Woods v. Ingersol, 1 Binney, 146.*

If a survey had been duly made under legal authority, and the land surveyed remains open to purchasers, a warrant coming afterwards to the hands of the deputy, may be applied by him to the survey already made, without running and marking the lines anew. So, where the lands to be surveyed are bounded by the lines of other tracts, surveyed before, he need not run those lines over again. *Lessee of M'Rhea v. Plummer, 1 Binney, 227.*

The return of a deputy surveyor is *prima facie* evi-

dence, but not conclusive of the truth of the matter returned. It would be a reflection on courts of justice, if, where the party had in truth procured a legal survey to be made, he should be stopped from showing it, merely because there had formerly been an illegal survey, and the officer had made a mistake in his return. *Faulkner v. the lessee of Eddy*, in error, 1 Binney, 188.

A survey made by an assistant deputy surveyor for himself, is of no validity till it is recorded by his principal. *M'Kinzie v. Crow*, 2 Binney, 105.

Applications made to deputy surveyor to make a survey, and what passed thereon, are proper evidence. They are acts done in prosecution of the title, and tend to show that no laches is imputable to the party who took out the warrant, but that he made the proper efforts to complete his title. Such evidence has constantly been received. Were it otherwise, it would scarcely ever be possible to show fraud, or improper conduct on the part of the deputy surveyor. *N. Sbit's lessee v. Titus Huntington*, May, 1793, before M'Kean, C. J. and Yeates J. (MSS. Reports.)

In the Lessee of John Hubley and others v. Benjamin Chew, Northumberland, October 1796, before Yeates and Smith, Justices. (MSS. Reports.) The plaintiff claimed under 18 different warrants, dated the 16th of August, 1773, to Bernard Hubley, and others; a survey begun by Jesse Lukens, on the 7th of September, 1773, (but nothing further done, than running two lines, by reason of the appearance of some Indians;) and the surveys finally completed on the 14th, 15th, 16th, 17th, 18th, and 19th of April, 1777, by Joseph Wallis, under Charles Lukens, deputy surveyor.

A small memorandum book of field notes of Jesse Lukens, was offered in evidence by the plaintiff, and excepted to by defendant, and a witness was adduced, who swore it did not appear to be Luken's hand-writing; but it appeared to have been found amongst the papers of the deputy surveyor of the district, and that other witnesses believed the notes to be Luken's writing, (though having been first traced out with a black-lead pencil, and afterwards run over with a pen and ink, the usual character of his hand-writing was disguised thereby, and rendered more stiff.) the court directed it should be read in evidence.

The surveys made by Joseph Wallis were also offered in evidence, and opposed in the like manner. On the face thereof they purported to be made on the 14th, 15th, 16th, 17th, 18th, and 19th of April, 1777, and were returned in these words, "For Charles Lukens, Esq. Joseph Wallis. (D. S.)"

Proof was given, that on a hearing between the parties, before the Board of Property, in April, 1793, Wallis had admitted that he had surveyed the lands in 1777, but made no returns thereon, and denied that the letters (DS) therein, were his hand-writing: some witnesses deposed, that they did not believe those letters (DS) were his hand-writing; and others deposed the contrary.

A special certificate from Daniel Brodhead, Surveyor General, accompanied each survey, in these words: "The above is a true copy of the original remaining in my office, which does not appear to be registered as other returns are in the books kept for that purpose, and the survey appears to have been made at a time when the Land Office was closed, and no Surveyor General, or deputy, under the new constitution was appointed."

The plaintiff's counsel admitted, that their surveys were not returned into the Surveyor General's office till after 1781, and it was sworn, that John Musser (who it was agreed, was interested in the lands claimed by the plaintiff,) had delivered them into the office; but the precise time and manner of doing it, did not appear.

It was contended for defendant, that the surveys were made without authority, and could only be considered as mere blank paper.

It was mutually agreed, that deputy surveyors, before the revolution, were not under oath; but that they gave bond and security for the faithful discharge of their duty; and likewise, that the surveys in question, were not returned into the office of the Secretary of the Supreme Executive Council.

The defendant's counsel insisted, that the papers offered, differed from, and were materially distinguished from common returns of surveys. They have been put into the office by one of the parties, and to whom they were delivered, is uncertain; not being registered in the usual book kept for that purpose, they are either impositions on the part of Wallis, or an improper use has been made of his drafts.

From the principles and nature of the American Revolution, it is obvious, that all proprietary officers terminated when the great event took place. But on this subject, there can be no possible difficulty. A law of the state has expressly declared, that all appointments by the late governors of Pennsylvania, or by acts of assembly, should cease, the trustees of the Loan Office only excepted.

It probably will be said, that the act for vesting the estates of the late proprietaries of Pennsylvania in this commonwealth, asserts, that all titles and claims derived under them, their officers, or others by them duly appointed, or others, shall be thereby confirmed and established; with a proviso, that the private estates of the proprietaries only, which had been surveyed and returned into the Land Office, on or before the 4th of July, 1776, should be confirmed to them; and that thereby, a line of distinction is drawn between the property of individuals, and of the late proprietaries, as to the times of surveys of their respective lands. To this, it is answered, that the act only refers to the titles and claims, as they stood on the 4th of July, 1776, and all the interest of the proprietaries at the time in the soil, was thereby vested in the commonwealth. The provision, is a new clause, that the proprietary estates, intended to be secured by the act, were confined to those lands which had not only been surveyed, but returned before that day, strengthens this position.

This construction, moreover, is fortified by the law of 17th of March, 1780, which was made with the express view of guarding against the mischiefs which might arise from clandestine surveys, and undue appropriations of vacant or waste lands, made since 4th of July, 1776, and enacts, that such surveys shall not be available in law or equity, or vest any title in such lands, unless they should be returned, with clear descriptions of the rights or claims upon which they were made, within the periods therein limited. That this has not been done in the present instance, has already been agreed; and consequently the terms of this law fully apply hereto, unless it is otherwise provided for, by some subsequent act of the legislature.

The law for establishing a Land Office, directs, that all persons entitled in law or equity, to lands within the Indian purchase, by virtue of any grant, warrant or location, before the 10th of December, 1776, may receive patents, on payment of the purchase money, interest and office fees; and where surveys have not been made and returned to the former office, an order of survey and patent may be had on certain conditions, &c. All lands theretofore conveyed and not returned, shall be returned into the Surveyor General's office in nine months. No relief is given by this law.

The act of 5th of April, 1782, empowers the Surveyor General, to receive returns of such surveys, as shall appear to him, to have been faithfully and regularly made, from the late deputy surveyors, for such further period, as to him shall seem just and reasonable. The plaintiff, to entitle himself to the benefit of this law, must evince the regularity of this survey. The

Surveyor General, by his certificate, has disapproved, and not approved of these returns.

The act of 4th of September, 1793, directs, that all returns of surveys, actually executed since the 4th of July, 1776, by deputy surveyors, under legal appointments, shall be received in the Land Office, though the deputies may not be in office at the time of the return made; provided that they have not been more than nine years out of office.

To entitle a party to the return of surveys contemplated by this law, they must have been actually executed by deputy surveyors, whilst they acted under legal appointments. Now John Luken's power, as Surveyor General, expired, beyond all question, under the law of 28th of January, 1777; and his deputations must have ceased of course. It is evident, therefore, that Charles Lukens could have no power to make a survey of vacant lands, in April, 1777, and that Joseph Wallis, who acted under him, could have no greater authority than his principal.

The legislature in their act of 9th of April, 1781, justify and sanction the acts of the proprietary officers, in the granting of lands, up to the 10th of December, 1776, but no further. It is therefore submitted, that these surveys were made without authority, and cannot amount to an appropriation of any lands; and consequently, that they ought not to be received in evidence.

The plaintiff's counsel urged, that at any rate the surveys were evidence, to show that the persons now suing, prosecuted their claim to lands, which were begun to be surveyed in 1773, and that they never lost sight of their object.

The law of November, 1779, has very general and extensive words. It declares, that, "all and every the rights, titles, estates, claims and demands, which were granted by, or derived from the said proprietaries, their officers, or others by them duly commissioned and appointed or otherwise, or to which any person or persons, other than the said proprietaries, were, or are entitled, either in law or equity, or by virtue of any deed, patent, warrant or survey, of, in or to any part, or portion of the lands comprised and contained within the limits of this state, or by virtue of any location filed in the Land Office at any time or times before the said 4th of July, 1776, shall be, and they are thereby confirmed, ratified and established forever, &c."

Now, though the locations must be entered before that day, there are now words which limit the surveys to that period. The terms are "by virtue of any deed, patent, warrant, of survey." The words "or otherwise" have some meaning, and can refer to nothing, but to some supposed or implied defect of power in the late proprietary officers. The distinction made between the lands claimed by individuals, and by the late proprietaries, in their private capacities, must strike every reasonable mind. To vest an interest in the latter, surveys must have been made and returned before a certain day, but in the former case, the legislature are wholly silent, and it may fairly be concluded, that any survey made for a private person, previous to the passing of that act, by an officer *de facto*, would be good and valid. The law favours the acts of persons in reputed authority. To reconcile the minds of the people to the measure of taking from the late proprietaries their interest and property in the soil, it became necessary to use strong expressions in the law, thereby securing all the rights and claims of individual citizens.—A mortgage made on the 20th of June, 1776, acknowledged the 5th of July, and recorded on the 3d of November, 1776, was held good and valid, and one of the reasons given by the court, was, that all transactions in the Land Office, and other officers, during the *interregnum*, which were in themselves fair and honest, have uniformly been considered as valid, for the sake of public convenience. 1 Dallas, 436, 438.

The reason why surveys were directed to be return-

ed to the Secretary of the Executive Council, was merely on account of the Land Office being shut.

The act of 9th of April, 1781, cures the defect in the plaintiff's title in not returning these surveys to this Secretary's office. If the surveys were returned in nine months from the passing of that law, it is sufficient. It was not necessary that the surveyors should return the surveys with their own hands. The party interested may well do it for him; this is known to be a customary thing. If the surveys were lodged in the office before the 9th of January, 1782, there was no occasion for the Surveyor General to exercise any discretion in the business. His certificate at this time can neither diminish, nor add weight to the surveys. They were found duly returned into his office, and derive authority from that circumstance.

The intention of the legislature, in passing the law of 4th September, 1793, was to ease the citizens of the expenses of new surveys. Charles Lukens did act under a legal appointment: Joseph Wallis had business under him; and it would be attended with the most pernicious consequences, to lay down the doctrine, that all the acts of deputy surveyors from the 20th of December, 1776, to 27th of November, 1779, were merely void and of none effect.

The Court declared their opinion, that the surveys offered in evidence, did not appear to be executed by a proper officer, whilst he acted under a legal appointment. A mode had been provided by the act of assembly of 17th of March, 1780, by which they might have been rendered legitimate; but the directions of that law not having been pursued, by a return into the office of the Secretary of the Supreme Executive Council, no succeeding law, that they knew of, cured the defect of proper authority in Joseph Wallis, who made the surveys. Consequently, the surveys could not be received in evidence of the appropriation of vacant lands, but only as merely pursuing and continuing the claim of the parties. The court, however, invited the plaintiff's counsel, to require that the point might be reserved for further investigation, which was done accordingly.

The plaintiff then gave evidence of having paid Joseph Wallis £127. 2s. 6d. by his receipt, bearing date 9th of April, 1778, for surveying sundry tracts of land, and making a draft extraordinary: and a general draft made by Wallis, connecting twenty-five surveys together, was offered in evidence, and excepted to.

By the Court. If this paper is offered as evidence of an official survey, we must reject it, to preserve consistency in our opinion: but if it is offered as written declarations of Wallis, to strengthen, or weaken his assertions before the Board of Property, in the presence of the parties, it may be admitted for those purposes, but no further. It cannot be made use of to establish any independent fact. The court finally declared, independent of the merits, that the plaintiff could not recover, for want of an official survey: and the verdict was for the defendant; which was acquiesced in.

Papers found in the office of the deputy surveyor of the district, and in his hand writing, may be given in evidence, to impeach his return of survey. But such papers should be treated with due caution, and consideration had of all the attendant circumstances. So ruled, in the lessee of Adams vs. Goodlander and others, Northumberland, May, 1793, before Shippen and Yeates, Justices. (MSS. Reports.)

Letter of a deputy surveyor to his assistant, to make a survey, is good *prima facie* evidence, though not proved to have been delivered, and the survey has been made after the death of the deputy surveyor, but which circumstance the assistant may not have known; but it may be repelled by other proof. The authority of such assistant should not be too nicely scrutinized after a great lapse of time. Bell's lessee vs. Levers, Northampton, June 1800. (MSS. Reports.) S. C. 4 Dallas, 210.

And, in the lessee of Armstrong vs. Morgan, Hun-

tingdon, May, 1803, before Yeates and Smith, justices, (MSS. Reports.) The plaintiff's counsel stated, that his claim depended on a written order, signed by Richard Peters, Esq. directed to Col. John Armstrong, to survey to George Croghan, Esq. 4000 acres on Aughwick, Juniata, and Dunning's creek, in 1761. That the said written order was afterwards burnt in the house of Col. Armstrong, in 1763. But the survey so made, was recited in a patent to James Foley, for another part of the land, "to have been made by the consent and direction of the proprietaries for George Croghan." After showing which, they offered to prove the contents of the said written order by parol evidence: and that the Land Office had been searched, but no vestiges of the written order could be found. This evidence was objected to.

By the Court. The objection made, goes rather to the operation of the evidence offered, than to its admissibility. The great rule of evidence is, that none shall be admitted which supposes superior evidence behind in the power of the party. If an instrument be lost, after proving that it did once exist, it may be proved by a copy; or if there be none such, by witnesses *viva voce*. The law for necessity admits that, which of all things it most abhors, parol evidence of deeds. Even the copies of records which have been lost, may be given in evidence, though not proved to be true copies. It is admitted that all the official papers of Col. Armstrong were burned in 1763, and this order must be presumed to have been amongst them. The Land Office has been searched, &c. nothing remains in the plaintiff's power, except the parol evidence offered, which ought to be received, and its operation weighed dispassionately.

For other matters relating to surveys, and titles to lands. See the notes to the limitation act, *post*.

The reader is further referred to the end of the appendix in the 4th volume, where any additional cases on the subject which may hereafter be decided, will be noticed; and any errors in the preceding notes which may occur to the editor, or be pointed out by others, will be corrected.

It remains only to notice an act of assembly passed, 19th of March, 1804, (chap. 2451,) entitled "An act enjoining certain duties on the Surveyor General," which enacts, that the Surveyor General shall be authorized to issue certificates of any entry or entries in the books of accounts heretofore kept by the Surveyor General, containing entries of the time of bringing into his office any survey or surveys made by his deputies, or any of them, and the charges therein made against them or either of them, as acceptance fees for the same, under the seal of his office, and to receive the usual fee for such certificate, for which he shall account to the commonwealth; and the certificate so issued shall be deemed and admitted as legal evidence in any court within this commonwealth, any law or custom to the contrary notwithstanding.

There are no books of the nature above described, in the Land Office, prior to John Luken's time.

#### TOWN MEETING.

At a meeting of the citizens of the city of Philadelphia, and the adjoining districts, held in the District Court Room, on Wednesday evening, September 3, JOSEPH R. INGERSOLL, Esq. was called to the chair; and PETER HAY and JOS. R. CHANDLER, appointed secretaries. The following preamble and resolution were offered by Alderman Binns, and unanimously adopted:

Whereas, this meeting has been called "to express the public sentiment in relation to the late riots, and to adopt such measures as shall be deemed proper for the relief of the innocent sufferers;"—And, whereas, to enable this meeting to express correct opinions on their own behalf, or on behalf of the public, or to adopt proper measures in relation to the innocent sufferers by the

late riots, it is necessary that certain information should be obtained, and we deem it advisable that suitable means be adopted to obtain the information required. Wherefore:—

Resolved, That a committee of seven—three from the city, and two from the northern and two from the southern liberties—be now appointed, whose duty it shall be to inquire into the origin and progress of the late riots in Philadelphia, and the means taken to suppress them; and to ascertain the extent of personal injury inflicted, and the damage done to property, real and personal; and that the said committee be requested to make report to an adjourned meeting of the citizens of the city and county of Philadelphia, to be held at this place, on the 15th day of September, inst. at 7½ o'clock, P. M.

The Chairman appointed the following gentlemen as the committee authorized in the above resolution.

John Binns,	John Goodman,
Peter Hay,	Morton M'Michael,
James Mott,	Andrew Hooten,
Richard Renshaw,	

Resolved, That the Committee have power to fill any vacancy that may occur in their body, by resignation or otherwise.

JOS. R. INGERSOLL, Chairman.

Peter Hay	} Secretaries.
Jos. R. Chandler.	

#### GEOLOGY OF MIFFLIN COUNTY.

We have just received the first number of the "Transactions of the Geological Society in Pennsylvania," published by J. Dobson, No. 68 Chestnut street. This journal is neatly printed, contains 180 pages and 6 colored engravings, and the whole gives evidence of the zeal and industry manifested by this important society. Among other articles is an interesting account of the gold region of the United States, and we observe that one of its members has undertaken to visit and report upon the gold region of York Co. We trust that the exertions of this society will ultimately be successful in procuring a Geological survey of the whole state under the patronage of the legislature. The following article extracted from the present number of the journal, relates to a portion of our own state. The society and the journal will, we hope, both be encouraged.

*On the Geological position of certain beds which contain numerous fossil marine plants of the family Fucoides; near Lewisstown, Mifflin county, Pennsylvania.—*  
By RICHARD C. TAYLOR, F. G. S. &c.—Read April 23, 1834.

In a recent number of the London Magazine of Natural History, I communicated a drawing of *Fucoides Alleghaniensis*, so named by Dr. Harlan of Philadelphia; together with a slight sketch of some of the rocks comprised within the grauwahe group of central Pennsylvania, and a more detailed notice of the strata in which numerous fossil plants of this family prevail.

I propose to state the substance of that article, as relates to the Fuci, and to annex some observations which have been made subsequent to that communication.

Fossil plants of this family are very common in the siliceous and argillaceous deposits of the transition series, in this country. In the grauwahe group of Sweden, Mr. De la Beche enumerates two species, and one other undetermined species occurs in Ireland. In England I am not aware that any have been described in the same series of rocks. On the authority of M.

Ad. Brongniart, Dr. Harlan refers to two species in the transition limestones of Canada. Within the space of a few months, I have observed *Fucoides Alleghaniensis*, with other species, in the brown sandstone of Tussey Mountain, near Alexandria in Huntingdon county. Further south I noticed them in a similar rock in Bedford county. In the white sandstone of the seven Mountains, in Centre county, *F. Alleghaniensis*, and several others prevail at the height of seventeen or eighteen hundred feet above the sea. At Muncey Ridge, near Muncy, in Lycoming county, I obtained splendid specimens of *F. Alleghaniensis*, on white sandstone; and in the same vicinity other species in greywache slate. At the latter place and near Lewistown they occur at 450 feet above tide water. In the lower part of the old red sandstone, on the eastern slope of the Allegheny Ridge, I have observed fossil fuci of simple form, associated with *Productæ*, at points more than a hundred miles apart.

Detached fragments containing specimens of *F. Alleghaniensis*, amongst others, that from whence Dr. Harlan's figure and description are derived, have not unfrequently been observed among the talus of the ridge, called Shade Mountain, on the north side of the Juniata river; and in the deep valley of "the Long Narrows," below Lewistown.

Towards the close of the last year the strata in which these fossil plants occur in situ, came under my observation, and I proceed to describe the circumstances attending their position.

After passing Lewistown, the Juniata flows easterly five or six miles, between two ridges of siliceous rock, each upwards of 700 feet high, through the narrows. So narrow indeed is this ravine for the most part, that it only suffices for the channel of the river. The western turnpike road, and the Pennsylvania canal are chiefly formed out of the base of the Shade Mountain, which rises on the north side. In making the excavations for these works, the arrangement of the lower strata, is consequently exposed. This development is the more interesting, since it comprises the beds which contain fossil fuci in singular abundance.

October 2d, and 25th. Commencing the examination from the west, I traced these beds uninterruptedly among the debris, for a couple of miles, to a position where they could be examined more satisfactorily.

They consisted of compact, fine grained argillaceous sandstone, interstratified with greenish seams of shale and some with their laminae of dark carbonaceous slate, both containing mica. Further westward, the focus beds were again laid bare, to the height of near fifty feet. Here I counted seven courses of them, comprised within a thickness of only four feet.

Among the lower beds are some of white sub-crystalline quartz rock, and others of micaceous and schistose sandstone, whose upper surfaces were traversed by fuci of another species, distinguished by long curving stalks; whilst on other slabs a third species, crossing in straight lines, formed a reticulated surface, resembling network.

At three miles below Lewistown, are exposed numerous seams of fine greenish brown sandstone, separated as before, by thin courses of micaceous clay and shale, containing some magnesia. So numerous are the beds of fucoides here, that eight or ten were counted within the space of six feet; some of which did not exceed an inch in thickness. Lower down the narrows succeeds a group of argillaceous and ferruginous beds; whose upper surfaces were covered with obscure forms, and irregular branching protuberances, probably derived from some other species of fossil algae.

November 11th, and 12th. The exploration of the fucus beds was resumed, and from it results the discovery of a series far more extensive than had been contemplated. On the margin of the canal, at the western end of Shade Mountain are exhibited numerous seams, varying from an inch to a foot in thickness, of argillaceous

sandstone, the superior faces of which were observed to be thickly covered with obscure fuci or algæ. These seams are separated by partings of soft argillaceous rock, and greenish or yellow clay, from half an inch to an inch thick, almost entirely composed of accumulated plants of the same description. An opening or quarry made in this series exhibits an astonishing succession of vegetable surfaces or growths. At least one hundred courses are distinguishable within a perpendicular section of only twenty feet, all of them crowded with fossil plants of the obscure kind, and occasionally crossed by the larger fucoides.

At another point as many as twenty layers of fucoides were counted in the thickness of only three feet. There seems to be more than a hundred and fifty feet thickness of this part of the series. It is difficult to estimate the entire thickness, since it cannot be known how low it descends under the level of the Juniata. Allowing for the average inclination of the whole group from the river to the ridge, it cannot be taken at less than 200 feet. At the west end of Shade Mountain I found these beds extending uninterruptedly to an elevation of from 300 to 350 feet. Those containing the obscure algæ reached 250 feet, and at 300 feet abundance of surface slabs exhibited the *Fucoides Alleghaniensis* in situ. Above this height the ridge is abrupt and is covered with loose sandstone blocks.

The deposit which has been thus briefly traced out, although it forms an insignificant fraction of the immense succession which is comprised within the grauwache group, present matter for the consideration of the speculative geologist. It has been seen that here occur almost innumerable beds of fucoides, of several species.

Hence may be inferred the existence at various epochs, of so many surfaces on which vegetation flourished, at the bottom of an ancient ocean. We ascertained that there were frequent repetitions of these submarine plants, and many renewals of the argillaceous matter in which they took root. We further learn, from the often repeated successions of this marine vegetation, and from the absence of the coarse aggregates, grits and conglomerates, that this member of the grauwache group was formed under a quiescent state of the antediluvian waters. The *F. Alleghaniensis* has with propriety been classed with the most interesting fossil productions of this continent. A single slab in your cabinet, ornamented in relief with groups of this remarkable fossil, whose figured surface reminds us of the Gothic tracery of ancient sculpture, is of itself an object of admiration. Imagine beds of these, miles in extent, deposited or rather accumulating growth after growth, and layer over layer, and you will have one more subject for contemplation, in addition to the innumerable others, which result from our inquiries into the "Remains of a former world."

Since the preceding passages were written, I have again explored the position of the fucus beds in the Shade Mountain, and am enabled to subjoin a few additional notes.

It may be premised that in estimating the position and areas of the various deposits in this vicinity, no small perplexity arises from their curvatures or contortions. Erroneous impressions relative to their prevailing inclination and direction, must not unfrequently result from the inspection of detached sections. It is only by a continued series of observations, under propitious circumstances at various points, and at different seasons of the year,—for even the season of snow is favorable to the exhibition of some of the broader geological features in mountainous districts—that the intricacies of such deposits can be unravelled. This remark is strictly applicable to the entire valley of the Juniata, on either side of which, throughout its course, a continued series of contorted stratified masses, rolling and heaving like the waves of a stormy ocean, embarrass the progress of geological investigation.

It has been long ago noticed, that the deposition of the grauwache and transition strata, appears to have been subjected to much interruption; that the order of their succession is extremely variable; and that while in some situations, certain deposits were accumulated in great thickness, they were at other points wholly absent.

The Lewistown argillilo-siliceous beds, which are distinguished by such a remarkable succession of fossil marine plants, furnish an example in accordance with these views.\* Occupying the bottom of a deep trough, between two lofty ridges which are formed of a different material and incline at opposite angles, these beds broken and distorted by violent action and apparently unconformable to the subjacent rocks, bear evidence of a more recent origin.† Towards the eastern termination of this trough, they are seen rising up at a high angle and then folded back against the mountain; appear to abut upon the silicious rocks of the ridge; dipping about twenty degrees to the north west.‡ In the centre of the narrows they dip at an angle of thirty degrees in the same direction towards the ridge,§ and at the upper or western entrance the inclination changes to a very gentle slope from the mountain.||

They do not exhibit themselves in situ in the narrows at a higher elevation than about fifty feet above the Juniata, and occupy merely a strip of the breadth of one-sixth of a mile. At the western termination of the Shade Mountain we find this deposit not only expanded over an area a mile in breadth at least, but attaining an elevation of three hundred and fifty feet; the whole mass descending, as we have before stated, at a small angle towards the west.

The Juniata cuts across the *Fucus* beds at this point, traversing from the north to the south side of Shade Mountain; and here this ridge having passed in a straight line for more than forty miles from the Susquehanna and having maintained a uniform elevation throughout, loses its bold character and terminates in a gentle slope to the river. Through the comparatively soft strata which contain the vegetable remains, the Juniata has in the lapse of ages, affected a passage, first transversely, and then longitudinally down the gorge, and during this process a large portion of such strata have evidently been removed. These details are illustrated by the map and section, Pl. iv. fig. 6, and Pl. iii. fig. 7, by which it will be perceived that the stratification of the two ridges incline toward each other, at an angle of about fifty degrees, and if prolonged would meet beneath the centre of the trough; and as the *fucus* beds seem to rest upon both, as a filling up, it is obvious why we incline to the opinion before given that this deposition was effected at a period subsequent to the upheaving of the ridges.

Shade Mountain, on its southern side, consists of a compact rock, composed of crystalline grains of quartz, and rising to the height of near 750 feet in waving beds and coarse lamina, whose average inclination is about 50° S. E. their direction being N. E. nearly. The surface of this stone is covered with minute quartz crystals, and its masses are every where intercepted by that peculiar striated glance cleavage, so commonly observed in the anthracite coal slates, and even in the coal itself. On breaking this rock, it appears spotted with a brown mineral substance, occupying small cells. The mineral oxides on exposure, and being soon removed, the empty cavities confer a honeycomb appearance on weather worn masses. Rocks of this structure are by no means uncommon in the grauwache group. The neighboring parallel ridge of Jack's mountain is of this description on its south side; and I have even observed fragments on the west side of the Allegheny ridge.

Red sandstone, (quartzose, greywache or grit,) with

interlacing white quartz veins, occurs on the north slope of both the Shade Mountain and Jack's Mountain, and a similar arrangement prevails in the main ridge of the next group, called the Seven mountains. Coarse, imperfectly defined traces of *Fucoides* are occasionally seen on the surface of the red sandstone, in all these localities.

The deposits, which by way of local distinction I have designated as the *Fucus* beds, comprise strata of different mineralogical character; consisting of modifications and admixtures of argillaceous, slaty and siliceous rock, coarsely laminated, and separated by thin partings of shale. Some of the slates are of fine texture, and contain chlorite, magnesia, mica and ferruginous matter. Animal remains have not been detected in them.

The marine vegetable fossils are all referrible to the family *fucoides*. *Fucoides Alleghaniensis* has been originally described by Dr. Harlan from this locality, and is the most remarkable fossil here. In one variety the rugæ of the branches or digits are more strongly serrated than those figured by Dr. Harlan.

*F. Brongniartii*, also described by the same naturalist, occurs here, but more sparingly. Vid. pl. iii. fig. 6.

Figures 1, 2, pl. i. and iii. pl. ii. and v. pl. ii. are sketches one-fourth the natural scale, of another species of *fucoides*, distinguished by its long, flexible and flattened stalks, with few branches. The breadth of these stalks is commonly half an inch, but sometimes greater. The specimens are sketched from slabs which occur in the Long Narrows. It would have better served the purpose of scientific illustration, could more perfect specimens, exhibiting the superior terminations of these plants, have been procured.

Figure 4, pl. ii. is a sketch from a large slab of that species which has been referred to as obscure or indeterminate, and which covers in relief the upper surfaces of the pavement slabs used in the streets of Lewistown. It occurs in greater profusion than the other species. Hundreds of beds, some of them not an inch in thickness, and seldom exceeding five or six inches, occupy an aggregate thickness of probably 200 feet, at the western termination of Shade Mountain; and the quarries on the margin of the canal, within a mile of Lewistown, furnish an inexhaustible supply of these excellent paving materials. The vegetable forms are less distinguishable when fresh from the quarry, than in the weathered slabs and pavements, where the argillaceous shale, which always interposes between the seams of indurated stone, is decomposed and scaled off.

In the foregoing notes have been brought together the observations which a temporary residence near the spot has enabled the writer to make, respecting this singular depository of fossil plants; to which investigation he is happy to acknowledge himself stimulated by the instructive paper of Dr. Harlan on the *Fucoides Alleghaniensis*, in the Journal of the Academy of Natural Sciences of Philadelphia, vol. vi. p. 289.

POTTSVILLE, Pa. Aug. 30.

DROUGHT.—We have had an unusually long spell of dry weather in this neighborhood. We learn that the crops of corn, buckwheat, &c. &c. have sustained considerable injury. The pasture is literally burnt up in many places. The Schuylkill above and below us, is dwindled into a rill or streamlet, which may be passed over dry-shod. The want of rain was scarcely ever before more severely felt than at present. The weather has been cool for several days past.—*Miners Journal*.

LARGE CUCUMBER.—A cucumber, measuring 18 inches in length, 13 inches in circumference, and weighing 5½ pounds, was raised in Mr. Hardy's garden, in this borough, and can be seen at the bar of the Pennsylvania Hall. This is the largest cucumber we have ever seen, and we challenge the neighboring counties to produce one of equal size.—*Id.*

\* Pl. iv. Fig.

† Pl. iii. Fig. 8.

‡ Pl. iii. Fig. 10.

† Pl. iv. Fig. 7.

§ Pl. iii. Fig. 9.

## METEOROLOGICAL REGISTER.

*Extract from the Meteorological Register, taken at the State Capitol—Harrisburg, Pennsylvania,*

By JAMES WRIGHT, Librarian.

APRIL, 1834.

Days of the Month.	Days of Week.	Morning temperature.	Noon temperature.	Even. temperature.	Mean temp. of day.	Morning height.	Noon height.	Evening height.	Mean height.	Winds.	State of the Weather.
Thermometer.						Barometer.					
1	Tuesday	45	54	61	53	29.81	29.73	29.72	29.75	N	Cloudy day,
2	Wednesd	52	53	58	54	72	80	82	78	N	Light Rain—Cloudy,
3	Thursd'y	44	50	55	50	30.10	10	10	30.10	NW	Clear day,
4	Friday	43	49	51	48	24	24	24	24	NE	Cloudy day,
5	Saturday	41	48	55	48	28	28	28	28	E	Clear day,
6	Sunday	45	47	48	47	12	30.00	30.00	30.04	E	Cloudy,—rain,
7	Monday	48	53	53	51	29.93	93	93	29.93	NE	Rain,—Cloudy,
8	Tuesday	56	64	65	62	82	82	82	82	NE	Cloudy day,
9	Wednesd	55	64	60	60	89	80	80	80	SE	Cloudy,—rain at night,
10	Thursd'y	48	50	45	48	84	92	92	89	E	Cloudy damp day,
11	Friday	46	57	63	55	30.04	06	06	30.05	E	Clear day,
12	Saturday	48	64	70	61	6	6	6	30.06	E	do. do.
13	Sunday	49	66	71	62	29.93	93	93	29.93	SE	do. do.
14	Monday	56	70	75	67	83	83	83	83	SE	do. do.
15	Tuesday	58	73	74	68	73	72	72	72	SW	do. do.
16	Wednesd	63	72	73	69	62	57	57	59	SW	do. do.
17	Thursd'y	60	73	74	69	65	65	65	65	NW	Clear,—Rain,
18	Friday	54	60	62	59	95	30.00	30.00	98	SE	Clear,—Cloudy,
19	Saturday	50	55	55	53	83	80	80	81	SE	Drizzling Rain,
20	Sunday	55	65	68	63	80	80	72	77	NW	Clear day,
21	Monday	63	69	72	68	76	76	76	76	SE	Cloudy, day,
22	Tuesday	65	73	70	69	73	74	74	74	NE	do. do.
23	Wednesd	48	55	64	56	65	65	50	60	NE	Drizzling rain—Cloudy,
24	Thursday	53	62	63	59	70	70	70	70	NW	Clear day,
25	Friday	45	45	45	45	65	65	65	65	NE	Rainy day,
26	Saturday	53	55	47	52	50	50	50	50	NE	Sun & cl'y, rain, snow at night
27	Sunday	38	47	44	43	50	50	50	50	W	Cloudy, day—high wind,
28	Monday	48	64	59	57	50	50	50	50	W	Sun & clouds,
29	Tuesday	46	60	63	56	45	45	47	46	NW	do. do.
30	Wednesd	50	62	62	58	44	44	44	44	SE	Clear,—Cloudy,
Thermometer.						Barometer.					
Maximum on the 16th,						Maximum on the 5th,					
Minimum on the 27th,						Minimum on the 30th,					
Difference,						Difference,					
Mean,						Mean height,					

The committee respectfully recommend the attention of the proper authorities to the above named vagrants and nuisances as early as practicable.

The committee appointed to negotiate with the blacks on the subject of a sale of their property, reported as follows:

The committee appointed at your first meeting according to the second resolution adopted at that meeting—Beg leave to report.

That they have endeavored to give that attention to the subject which its importance justly demands.

They have in the first place ascertained as nearly as possible the name and number of colored freeholders in this borough, which according to the best information they could obtain they lay before you as follows, viz:—

Henry Barney, Wm. Brown, Aaron Brown, James Burrell, Michael Dellam, Charles Dellam, Joshua Eddy, Walter Green, John Green, George Hayden, Widow Hayden, James Hollingsworth, — Henderson, Glas cow Mature, Edward Miller, Wm. Pearl, Nicholas Pleasants, Philip Pleasants, Jacob Dickinson, John Johnson, Ephraim Malson, Sawney Alexander, Robert Patterson, Stephen Smith, Peter Swails, John Thomas, James Richards, Betsey Dean (formerly Roach) George Taylor, Geo. Young, Stephen Wilts, Eliza Park, Thomas Waters, Samuel Wilson, and Patrick, John and Washington Vincent—making in all thirty-seven.

They have called on most of them in person and think the disposition manifested by most of them decidedly favorable to the object of the committee. Some of them are anxious, many willing to sell at once provided a reasonable price were offered—others would dispose of their property as soon as they could find any other eligible situation.

All to whom your committee spoke on the subject of harboring strange persons among them, seemed disposed to give the proper attention to the subject. Your committee deem the result of their observation decidedly satisfactory.

In presenting this report your committee would respectfully call your attention to the impropriety of further urging the colored freeholders to sell until some provisions are made to buy such as may be offered, lest they should be led to consider it all the work of a few excited individuals, and not the deliberate decision of peaceful citizens. They therefore recommend the subject to the attention of capitalists; having no doubt that, independent of every other consideration, the lots in question would be a very profitable investment of their funds, and that if a commencement were once made nearly all of the colored freeholders of the borough would sell as fast as funds could be raised to meet the purchases. Your committee would further remark if every thing was in readiness, considerable time would be required to effect the object; they would therefore recommend caution and deliberation in every thing in relation to this important object.

In conclusion your committee offer the following resolution:

Resolved, That an association be formed for the purpose of raising funds for the purchase of the property of the blacks in this borough.

ROBERT SPEAR,  
H. BRIMMER,  
JAS. H. MIFFLIN,  
Committee.

On motion, the report was adopted.

On motion, the resolution attached thereto was adopted; and a committee of five gentlemen was appointed to form an association for the purpose of purchasing the property of the blacks in this borough.

The following gentlemen were appointed the committee: Messrs. Joseph Cottrell, Dominick Eagle, John Cooper, Robert Spear and Jacob F. Markley.

On motion, it was Resolved, That these proceedings be published in the Spy, and that the minutes of this meeting be referred to the committee named above.

On motion, the meeting adjourned.

JAMES GIVEN, Chairman.  
THOS. E. COCHRAN, Sec'y.

From Brackenridge's Recollections of the West.

#### FIRST COURT HELD IN BUTLER COUNTY.

During the latter part of my apprenticeship in the office, I attended the court, kept the minutes, swore the juries and witnesses, and listened to the speeches of lawyers and the charges of the judge, by means of which I picked up some law, in the way a child acquires his vernacular tongue. The bar was a very able one, and the lawyers were in the habit of handling every subject in the most elaborate manner.

It was now determined that I should begin a course of legal study, being in my eighteenth year. I had gone through a great deal of literary and miscellaneous reading, had some knowledge of history, and was well versed in the English classics, but had not yet read any law book. Mr. Wm. Ayres, who had been a student of my father, was appointed prothonotary of a new county called Butler, and, as he did not intend to give up his practice in other courts, wanted some person to attend to the duties of his office. I was employed by him, and was to read law, excepting when my time would be required by the business, which would not often be the case. It was thought by my father that the solitude of Butler would be more favorable to application than the society of Pittsburg.

On my arrival at Butler there were a few log houses just raised, but not sufficiently completed to be occupied. It was not long before there were two taverns, a store and a blacksmith's shop; it was then a town. The country around was a perfect wilderness, with the exception of a few scattered settlements, as far removed from each other as the kraals in the neighborhood of the Cape of Good Hope. I took with me a good supply of books, together with the library of Mr. Ayres, and immediately tasked myself with Blackstone's Commentaries. I had also some books selected for lighter reading, such as Shakspeare, Ossian, the Henriade, Pope's Homer, Dacier's Horace, the Comedies of Moliere, Plutarch's Lives, the Travels of Anacharsis, and other classical productions. I was also prepared with a light fusée for exercise and amusement. The business of the office requiring but little of my time, and having an unbounded liberty, with a most exquisite relish for its enjoyment, no small portion of it was passed in wild and uncertain rambles through the romantic hills and valleys of Butler. The mornings and evenings were devoted to study, but generally the day was sacred to liberty. For months, and especially during autumn, always my favorite season, when the face of nature is covered with a soft veil of pleasing melancholy, I wandered forth, without knowing whither I was going or when I should return. It was my practice to have my gun in my hand, and my book in my pocket. I should have felt at a loss without them, although I seldom used either. My favorite place of resort was Glade Run, which was more picturesque and romantic than the fertile valleys of the Conoquenessing. The scenery was such as Ossian loves to describe; the rocks, the grassy glades, the steep hills crowned with oak, the blue windings of a stream. Often have I sat for hours on the edge of a precipice, as if personating the genius of solitude. I gazed on the silent waste, giving wing to fancy, and weaving a thousand tissues of the brain. I have imagined incidents and events enough to form volumes of Arabian tales. And will any one say this is not happiness? Let him first define exactly wherein happiness consists. I followed the impulse of nature, for I had not then read either Beattie's Min-

strel, or Zimmerman on solitude. Much of my life has been passed in the open air, and to this I ascribe, in a great measure, the health and spirits with which I have been generally blessed. Confinement has always been insupportably irksome to my feelings. The Peripatetic school for me. On one of my excursions, while reclining beneath an oak, near a descending natural meadow, musing the fate of empires, a noble buck, with branching antlers, walked leisurely up the hill towards me. My gun lay by my side, but the majestic appearance of the creature riveted my attention, until, raising his head, he caught my eye, lifted his white tail, wheeled about, and bounded away to the thicket.

The first court held in Butler drew the whole population to the town, some on account of business, some to make business, but the greater part from idle curiosity. They were at that time chiefly Irish, who had all the characteristics of the nation. A log cabin just raised and covered, but without window sash, or doors, or daubing, was prepared for the hall of Justice. A carpenter's bench with three chairs upon it was the judgment seat. The bar of Pittsburg attended, and the presiding judge, a stiff, formal, and pedantic old bachelor, took his seat, supported by two associate judges, who were common farmers, one of whom was blind of an eye. The hall was barely sufficient to contain the bench, bar, jurors, and constables. But few of the spectators could be accommodated on the lower floor, the only one yet laid; many therefore clambered up the walls, and placing their hands and feet in the open interstices between the logs, hung there, suspended like enormous Madagascar bats. Some had taken possession of the joists, and big John M'Junkin (who until now had ruled at all public gatherings,) had placed a foot on one joist, and a foot on another, directly over the heads of their honors, standing like the Colossus of Rhodes. The judge's sense of propriety was shocked at this exhibition. The sheriff, John M'Candless, was called, and ordered to clear the walls and joists. He went to work with his assistants, and soon pulled down by the legs those who were in no very great haste to obey. M'Junkin was the last, and began to growl, as he prepared to descend.—“What do you say, sir?” said the judge. “I say, I pay my taxes, and his as good a reet here as my mon.”—“Sheriff, sheriff,” said the judge, “bring him before the court!” M'Junkin's ire was now up as he reached the floor, began to strike his breast, exclaiming, “My name is John M'Junkin, d'ye see—here's the brist that niver flunched, if so be it was in a good case. I'll stan iny mon a hitch in Butler county, if so be he'll clear me o' the la'.” “Bring him before the court,” said the judge. He was accordingly pinioned, and if not gagged, at least forced to be silent, while his case was under consideration. Some of the lawyers volunteered as amici curiæ, some ventured a word of apology for M'Junkin.—The judge pronounced sentence of imprisonment for two hours in the jail of the county, and ordered the sheriff to take him into custody. The sheriff with much simplicity observed, “May it please the coorte, there is no jail at all at all to put him in.”—Here the judge took a learned distinction, upon which he expatiated at some length, for the benefit of the bar. He said there were two kinds of custody: first, safe custody; secondly, close custody. The first, is, where the body must be forthcoming to answer a demand or an accusation, and in this case the body may be delivered for the time being out of the hands of the law, on bail or recognizance; but where the imprisonment forms a part of the satisfaction or punishment, there can be no bail or mainprize. This is the reason of the common law, in relation to escapes under capias and satisfaciendum, and also why a second capias cannot issue after the defendant has been once arrested and then discharged by the plaintiff. In like manner a man cannot be twice imprisoned for the same offence, even if he be released before the expiration of

the term of imprisonment. This is clearly a case of close custody,—*arcta custodia*, and the prisoner must be confined, body and limb, without bail or mainprize in some place of close incarceration. Here he was interrupted by the sheriff, who seemed to have hit upon a lucky thought.—“May it please the coorte, I'me just thicken that may be I can take him till Bowen's pig pen—the pigs are kilt for the coorte, an it's its emty?” “You have heard the opinion of the coorte,” said the judge, “proceed, sir, sir: do your duty.”

The sheriff accordingly retired with his prisoner, and drew after him three-fourths of the spectators and suitors, while the judge, thus relieved, proceeded to organize the court. But this was not the termination of the affair. Peace and order had hardly been restored, when the sheriff came rushing to the house, with a crowd at his heels, crying out, “Mr. Judge, Mr. Judge; may it please the coorte.” “What is the matter sheriff?” “Mr. Judge, Mr. Judge,—John M'Junkin's got aff d'ye mind.” “What! escaped, sheriff? Summon the posse comitatus!” “The posse, the posse—why now I'll jist tell ye how it happen't. He was goin on quee-etly enough, till he got to the hazzle patch, an' all at once he pited aff intil the bushes, an I after him, but a lumb of a tree kitched my fut, and I pitched three rad off, but I fell forit, an! that's good luck, ye minte.” The judge could not retain his gravity; the bar raised a laugh, and there the matter ended, after which the business proceeded quietly enough.

From the Pittsburg Gazette.

### THE POLES.

At a large and respectable meeting held at the Court House, on Monday evening, to adopt measures for the relief of the expatriated Poles, now in this city, SAMUEL PETTIGREW, Esq. was called to the chair, and *Alfred W. Marks*, appointed secretary.

Testimonials of the worth and respectability of the bearers, signed by the Chairman of Polish committees in Philadelphia and Lancaster, having been read by the secretary, Charles Von Bonhorst, Esq. rose and offered the following resolutions, which, after some eloquent remarks from Messrs. Burke, Lowrie, and Shaler, were unanimously adopted.

Resolved, That the feelings of sympathy, which have at all times distinguished the American people in extending the hand of charity to the distressed of every nation, are imperiously called for in relief of the Polish exiles now in this city.

Resolved, That destitute as they are of every means of subsistence, and unacquainted with our language and manners, we believe them, from their forlorn condition, to be entitled to our charity and commiseration.

Resolved, That these feelings appeal to us more powerfully, when we consider that the objects to whom our relief is proposed to be extended, are the countrymen of Kosciusko and Pulaski, exiled and driven from their native land by the hand of oppression, and seeking, in the new world, the enjoyment of that liberty for which they gallantly but vainly struggled in their own land.

Resolved, That Committees of three be appointed for each of the Wards of the city, and the boroughs of Allegheny, Northern Liberties, and Birmingham, to solicit the contributions of the citizens of their respective wards and boroughs, which shall be paid to an Executive Committee, to be appointed by this meeting, and by them appropriated to the relief of the expatriated strangers.

The following gentlemen were then appointed to the several committees.

*Executive Committee*—Messrs. Dallas, Burke, and Lowrie.

*East Ward*—Jas. Arthurs, T. A. Hillier, Wm. Richart.

*West Ward*—J. D. Davis, J. R. McClinton, R. C. Stockton.

*North Ward*—D. M. Hogan, Thomas Wynne, Wm. Holmes.

*South Ward*—Geo. Ogden, John P. Bakewell, John Gallagher.

*Allegheny*—Wm. Robinson, jr. Isaac Lightner, John Morrison.

*Northern Liberties*—D. P. Ingersoll, J. H. Shoenberger, J. B. Morgan.

*Birmingham*—C. Ihmsen, H. W. Wendt, Jas. Barr.

On motion,  
Resolved, That the proceedings of this meeting be signed by the Chairman and Secretary, and published in the different papers of the city.

SAM'L PETTIGREW, Pres't.

ALFRED W. MARKS, Sec'y.

#### INAUGURAL CHARGE BY J. M. PORTER, ESQ.

*President of the Board of Trustees of  
LAFAYETTE COLLEGE.*

In pursuance of public notice. the first Term in the new College edifice, recently erected, on the Highlands, north of Bushkill, in the Borough of Easton, Northampton county, Pennsylvania, was commenced and opened on the 1st day of May, 1834.

Shortly after nine o'clock, A. M. a quorum of the Board of Trustees met at the college, and unanimously adopted a code of Laws for the government of the institution.

At ten o'clock, they proceeded with the faculty, to the large Hall of the college, which, in memory of the useful labours of David Brainerd, at "The Forks of Delaware," the spot where Easton stands, in civilizing and christianizing the Indians, has been named "Brainerd Hall," where a large audience was collected.

The ceremony of installing the President and Professors then proceeded in the following order.

1.—Prayer by the Rev. J. N. Candee, of Belvidere, New Jersey.

2.—Music, Invocation, "Father all Glorious," by the choir, led by Mr. C. F. Worrell,

3.—Address and ceremony of installation, by James M. Porter, Esq. President of the Board of Trustees.

4.—Reading of the Laws of the institution by the same.

5.—Inaugural Address by the Rev. George Junkin, D. D. President of the College.

6.—Music. An original hymn, composed for the occasion, by Mrs. J. L. Gray, of Easton; by the choir as above.

7.—Prayer by the Rev. Mr. Macklin, of Clinton, New Jersey.

8.—Benediction by President Junkin.

*Address and Charge by James M. Porter, President of  
the Board of Trustees.*

It is with no ordinary feelings of gratification that I find this assemblage brought together in this place, and for the present occasion. The result of private enterprise and public benefaction, has reared this stately edifice, bearing the dear and cherished name of the last surviving General of our war of Independence, for purposes of instructing, and consequently benefiting the youth of our beloved country. And it is a pleasing coincidence that he, who is first called to preside over the institution, and to direct its operations, should be the son of one, who shed his blood in defence of his country, on the same field of Brandywine, where the youthful Lafayette first bled in freedom's cause.\*

It is not yet twelve months since the lines for its walls were marked out upon the ground, and it was on the

27th of June last, that these hands laid the first stone in its foundation. Who among us that witnessed the imposing ceremony of laying the corner stone, on the last anniversary of our independence, then flattered himself that by this day, the building would have been so far completed?

We boast nothing of elegance but in the location, size, and proportions of the edifice, and its adaptation to the purposes for which it has been erected. Nothing has been expended in ornament. Our attention has been directed to permanency, convenience and economy of room. These objects, we believe, have been attained so far as we have been able to go, with the limited means at our command, and we may safely assure ourselves, that no collegiate building in our country affords better, or more comfortable quarters for students, or greater, if indeed equal, beauty of situation.

It remains now for the public to cherish and sustain it, and if superior capacity and fitness in those placed in its charge, as proved by the unwonted progress of the pupils under their care for the last two years, constitute appropriate claims upon the public for their patronage, then indeed will this building be fully occupied by the youthful votaries of science, seeking riches that no mutation of time or circumstance can ever take from them.

In accordance with usage, we assemble this day to induct into office the faculty of the college.

The Reverend George Junkin, Doctor of Divinity, a native of Cumberland county, Pennsylvania, is appointed President of the College and professor of Mental and Moral Philosophy, Logic, Rhetoric, and the Evidences of Christianity.

Mr. James J. Coon, a native of Allegheny county, Pennsylvania, and graduate of Jefferson College, is appointed professor of the Latin and Greek languages.

Mr. Samuel Galloway, a native of our own county, and graduate of Princeton College, is appointed professor of Mathematics and Natural Philosophy.

These being the portion of the faculty now present, will be installed.

Mr. Frederick Schmidt, a native of Bavaria, is appointed for the present, instructor in the German Language. The Reverend Charles R. Dæmme, D. D. appointed professor of German Literature, not having as yet decided to accept the situation.

In confiding to you, Reverend Sir, the charge of this College, as its President, the Board of Trustees have, as I believe, been Providentially directed, and without incurring the imputation of flattery, I may be permitted as their organ, to say, that two years intimate acquaintance with you, in the situation you now fill, has fully justified the fondest hopes, they cherished of your capacity and usefulness—from the high reputation you bore, and which induced their original selection of you. We are aware, that it is a situation which can only be filled by a clear head, a sound heart, persevering industry, untiring zeal, and a mind enlightened by science and a knowledge of human nature.

The Charter of our Institution declares "that persons of every religious denomination shall be capable of being elected Trustees, nor shall any person, either as principal, professor, tutor or pupil be refused admittance into the College, or denied any of the privileges, immunities or advantages thereof, for, or on account of his sentiments in matters of religion." This provision was inserted to prevent the institution from ever being perverted to sectarian purposes; and it is the desire of the board literally to fulfil this injunction. Yet whilst they would strictly comply therewith, they desire to record their testimony, that they believe no institution of the kind ever can be properly conducted, where the interests of religion are unattended to or disregarded. And whilst they would wish to know no sect or party in religion within its walls, they would still more dread the withering, desolating, demoraliz-

\* Dr. Junkin's father, a Lieutenant at the battle of Brandywine, was severely wounded.

ing and injurious tendency of any thing which would lead to scepticism, infidelity or a disregard of pure, evangelical and vital piety.

Knowing your liberality and your piety, the board feel that they can safely confide this delicate matter into your hands, believing that you will avoid the extremes alluded to, and entirely fulfil the intentions of the Legislature in this respect.

You have undertaken the charge of this Institution upon terms that are perhaps new in college annals.—You have to depend for your support and that of your able associates and assistants, on the sums to be received for tuition, and hence we have the additional incentive of personal interest, superadded to that of a desire to be useful and to enhance your own fame and that of the institution, to induce you to activity, exertion and perseverance.

The general superintendence of the institution, as well as it regards the moral as the mental improvement of the students, is committed to your charge. The fact that, for two years past, since the institution commenced its operations under your charge, nothing has occurred, to evince a spirit of insubordination or violation of the rights or feelings of any of our citizens, speaks emphatically your capacity to control and govern youths, as well as the moral worth and correct deportment of the young gentlemen of the institution.

That you will faithfully perform all the duties incumbent upon you, and grow in fame and raise the institution to a high rank among the literary establishments of our country, is fondly hoped and firmly believed.

In confiding to you, gentlemen, (addressing Messrs. Coon and Galloway,) the professorships of Languages, Mathematics and Natural Philosophy, we believe we have also been fortunate.

You are in the prime of manhood, fresh from your College studies, where you have honored yourselves and your native state, *in bearing away the first honors of the institutions in which you have respectively graduated.* I speak advisedly when I say that I know your selection to the stations you fill, was induced by the opinion entertained by those who had a right to know, that you were peculiarly fitted for them. In the experience we have had of the value of the services of one of you for the last eighteen months, we know that our expectations have not been disappointed; and have no fears but that they will be equally realized in the other of you, just now entering upon his duties. You are engaged in an ennobling and instructive pursuit, and may fondly hope from the promise of your youth, that your age may be crowned with the highest honors which literary and scientific pursuits can bestow.

To your charge then (addressing the President and Professors,) with that of the other professors who have been, or may be appointed to fill the other chairs of this Institution, constituting the faculty thereof, the charge of this Institution is according to the charter of incorporation committed.

If the name of the Roman Cornelia has been immortalized for the exemplary manner in which she educated her sons, the Gracchi, whom she exhibited as jewels of superior value to any which a wealthier, but less instructed lady of Rome could produce; it is because of the value of her example and the appositeness of her remark.

So here, the people of Pennsylvania and of the Union, commit to your charge their jewels, in the persons of a portion of their sons. They desire that they may receive that polish and improvement which useful learning never fails to bestow, that by the development of their faculties and the cultivation of their powers of mind—they may indeed shine with a lustre, and possess an intrinsic worth far beyond any thing to be found in the richest specimens of the productions of Golconda.

(The Rev. Dr. Junkin's Address will appear next week.)

#### IMPROVEMENT IN THE GRIST MILL.

Isaac Straub of Northumberland County has invented a fixture for the Grist Mill that he calls a "Self Stopper." This fixture will stop off the water and stop the mill in the absence of the miller. Mr. S. has it in operation, and can be seen by all. A mechanic will at once perceive the utility and usefulness of it. It will also be seen that it is certain to take effect at the proper time, viz: the moment the mill starts to run empty. The effect is caused from an increase of speed, (which is always the case when empty.) The fixture is cheap, durable and simple, and we do heartily recommend it to all mill owners, as a valuable improvement in the Grist Mill, and are of opinion that a mill is not finished without this little appendage—for the want of which, many mills have been burnt down. Many mill owners are not aware of the amount of injury done their mills from this cause alone, and the above fixture may be considered as a perfect remedy. The public will be much benefited by the introduction of Mr. Straub's improvement, for it certainly deserves merit. We wish the inventor a suitable reward for his little, but ingenious discovery.

Mr. S. informs us that he has taken out a patent for the above.

ISAAC & JOHN VINCENT.

August 1, 1834.

Mr. Straub having put up his fixtures in my mill, I am satisfied with its usefulness, and therefore heartily subscribe to the above explanation and opinion.

E. G. LYON.

HUGHESVILLE, Aug. 16, 1834.

ERIE, Pa.

LIME.—We have before us a sample of very beautiful lime burnt from a quarry of stone recently found on the bank of Walnut creek, about ten miles from this place. It slacks with great ease, and is pronounced by good judges to be superior to the ordinary lime brought from Canada and the islands. We are informed that from present appearances, the source is inexhaustible. Since the first discovery (on the land of Mr. S. F. Gudtner) we understand that large quantities of the same kind of stone have been found in other places along the creek. We hope the expectations relative to the quantity may be fully realized. In that event the discovery will be of inestimable value to the country.

COLUMBIA, Pa. Sept. 16, 1834.

Riot at Columbia.—Another exhibition of that mad spirit of anarchy and violence which is spreading over the country like a flood, prostrating the barriers which have hitherto protected the lives and property of the citizens, and overthrowing the laws and good order of the community, was made in this place on Tuesday night last. At the dead hour of midnight—fit time for such deeds of darkness—a band of riotous persons assembled and attacked a house in Front street, occupied by a black man, the porch and a part of the frame of which they tore down, the inmates leaving the building at the first alarm. Thence the mob proceeded to the office of another colored person, who deals in lumber, broke open the window and doors, rifled the desk, and scattered the papers along the pavement. After attempting to upset the building, they marched off, having gained "glory enough for one night." Such proceedings are disgraceful to the character of the town, subversive of the quiet and safety of the inhabitants and insulting to the laws under which we live.

From the Washington [Pa.] Reporter.

Messrs. Editors—A copper coin [a cent] was recently dug up in a garden in this place which bears a curious relation to a part of our American history. It has on one side a head of George III. and the words "Georgius III. Rex" around the edge. On the opposite side, are represented the coats of arms of England

Ireland, Scotland and Virginia, quartered, and on the edge are the word and figures "Virginia 1773."

The following historical facts are here distinctly referred to. During the usurpation of Cromwell, the Colony of Virginia refused to acknowledge his authority, and declared itself independent. Shortly after, finding that Cromwell threatened to send a fleet, and army to reduce Virginia to subjection, and fearing the ability of this feeble state to withstand this force, sent over, in a small ship, a messenger to Charles II. then an exile at Breda in Flanders. Charles accepted the invitation to come over and be King of Virginia, and was on the eve of embarking for Virginia when he was recalled to the throne of England. As soon as he was restored to the crown of England, in gratitude for the loyalty of Virginia, he caused her coat of arms to be quartered with those of England, Scotland and Ireland, as an independent member of the empire. The above coin is confirmatory of these facts. Hence the origin of the phrase "Old Dominion" frequently applied to Virginia.

A. B.

#### REV. GREGORY T. BEDELL, D. D.

This good man, a distinguished brother in the Christian ministry, and the beloved Pastor of the Protestant Episcopal Church, in south Eighth street, Philadelphia, departed this life at Baltimore, Md. on the 30th of August last. His corpse was brought to this city, and interred on Tuesday, the 2d of September. For several years past he has laboured under a serious pulmonary affection, but still contrived with great care and assiduity to be very useful as a pastor, and a writer of good religious books.—*Philadelphian*.

The Rev. GREGORY T. BEDELL, D. D. died at Baltimore, on the 30th August, 1834, in the forty-third year of his age, and his remains were brought to this city, and interred in the cemetery of St. Andrew's church.

Those who knew Dr. Bedell solely through his literary productions, and his clerical reputation, must have felt surprised at the announcement of his age. That he who had poured such an abundant treasure from the press, and so long held the highest place in pulpit oratory, should have reached only to two score years, is indeed matter of wonder; but when we know, that for at least fifteen years, he has contended with a malady which seldom permitted a single day of entire comfort, we are doubly impressed with astonishment at the labors endured, and the works executed by him.

The mystery is easily explained however, when it is known, that he lived with the single purpose of serving his Divine Master, and that though possessed of a facility and versatility of talent which would have seduced almost any other man into procrastination, he seldom lost the little fractions of time, so generally squandered; but in every place and at all seasons, was accustomed to seize his pen and record his thoughts. He has been often seen in his vestry-room, in the midst of his friends, immediately after laborious public duty, committing to paper, hints for future sermons, or anticipated publication. This economy of time too was practised by the man who has more than once written out an entire sermon at a single sitting. Valuable as he was in other respects, in none has Dr. Bedell exhibited a more useful and a rarer lesson.

In another respect he presented a delightful model. Originally kind, gentle, and most affectionate, his heart did not lose the freshness and force of feeling as it became necessary to expand his regards over a wider surface. Nor did increasing years abate the vigor of his sentiments. For his fellow men, as well as for his friends and his family, there was a constantly increasing interest; and as his religion burned more and more intensely, so did his love for his neighbor grow stronger and stronger—and while he learned to love his God with *all* his soul, he did not forget to prize his fellows as himself.

It was this two-fold affection, which through the grace of God, kept him from feeling elated by the successful service of the temple, and the flattering suffrages of the world. His humility grew with his fame and his usefulness, and then most did he give the glory to his Master, when he was most eminent in the eyes of men. The nearer he drew to Heaven, and the more his labors resulted in great and good effects, the more did he lament the feebleness of the efforts, compared with the greatness of the cause, and thank the giver of every good gift that the progress of his kingdom was not left to any arm of flesh.

That remarkable humility gave a peculiar grace to his natural gentleness of manner and character. He was the gentlest of human beings, and while perfectly fearless in the execution of his high functions, always preferred persuasion to command, and desired rather to lead than to drive the sinner to repentance.

In an intimate, almost daily, intercourse for more than ten years, the writer of this article never received from him a harsh or hasty observation, although matters of the deepest interest were frequently subjects of discordant opinion.

The dogmatic manner, so frequently the result of pulpit declamation, never infected him; and all his intimate friends will agree in the opinion that he was entirely free from this very common fault of those who in any profession are frequently privileged to assert without hazard of direct contradiction.

His singleness of heart, and force of religion, made Dr. Bedell eminently practical. The speculations which might illustrate the man, were avoided for the services which might save the sinner, and *that* only seemed important in his eyes, which promised practically to advance the mighty cause in which he had embarked his energies, and to which he sacrificed first his health and then his life. Every thing was turned by him to religious account. He edited a newspaper—it was a *Christian Register*. He wrote a review—it was to bring the example and precepts of Heber attractively before his readers. He published a *Souvenir*—it was to press the popular annuals into the services of religion. He was a chief builder up of Bristol College—it was to discipline and instruct new soldiers of the cross for that strife in which he could not long hope himself to be a combatant; he greedily devoured the literature of the day—it was to select, republish and spread abroad whatever was promotive of morals, and illustrative of piety. Every one who examines the shelves of the booksellers, finds the name of Dr. Bedell on the title page of a very large portion of the most saleable religious books. His *tact* in this was unquestionable; and his selection was considered as sufficient warrant for republication, and his name an adequate proof of popular fitness.

With such qualities who could fail to prove interesting and instructive in the pulpit? But Dr. Bedell had also elegant taste, chaste gesture, and a pleasing, powerful and clear enunciation. With such advantages, with heartfelt conviction of the truth and paramount importance of his subject, forgetful of self and looking only to his audience, he never failed to make a strong and a permanent impression. Under such circumstances, those who knew him best and heard him most frequently, felt him most forcibly. He was an *unrivalled every day preacher*. Never aiming at single great efforts he never fell into mediocrity. Although his "occasional" sermons exhibit rare powers, it was necessary to hear him often, to know the full influence of his eloquence. The stream of his mind seldom dashed from the cataract or foamed in the rapids—clear, gentle, pure, it was always beautiful, seldom wild or irregular—it delighted not in the rock and the whirlpool, but loved to stray along cultivated fields, and amidst verdant meadows, where it could fertilize the one, and irrigate the other. Judging of oratory by its effects, his was of the highest order,—for he reared St. Andrew's from its foundation; and that church with its overflowing people, its numerous societies, its rich donations, its thousand scholars, is the very point to which the Episcopal public turns for an example of active good and extended usefulness. It was the product of the labor of eleven years, during all which time, he was under the affliction of disease, often painful, always oppressive.

But in spite of a feeble constitution and superinduced sickness, literary labours and general engagements, the first Rector of St. Andrew's church has left it in a state of the highest religious prosperity, after a progress most harmonious, at a period when the dissensions of the church general rendered it difficult to maintain the peace and good order of individual communities. His year has closed almost in its spring, but the fruits were mingled with the blossoms—and amidst the buds and flowers of the earlier season, we hail the ripened grain and the rich abundance of a productive autumn. Who then shall lament that "his sun has set while it is yet day," since he has done his work and avoided the ills of the sunset of life? It was an early but not a premature death: and indeed his influence does not die with him, for his lasting memorials are every where abroad in the churches, to stimulate piety and enliven hope, and to prove that, with the blessing of God, great ends may be reached by apparently inadequate means.

It is scarcely to be supposed that with such dispositions and such piety as were possessed by Dr. Bedell, his social circle could fail to be peculiarly interesting. Gentle manners, warm affections, sprightly friendship, were there in a degree scarcely ever found in our darkened world. His wife was his highest and most cherished friend and confidant, his children feared only to wound him, and his friends crowded round him with a full assurance of a welcome at once warm and sincere. It was indeed impossible to enter his domestic circle without feeling how much its enjoyments were heightened and purified by the sacred spirit of its head, and the habitual kindness of its inmates. His widowed wife and his orphan children have lost not only their stay, but their preceptor and companion. Yet if they mourn they have the certainty of his happiness to console, and his bright example to support them. They are the legacy of the righteous man, and will they not participate in the promise that they shall not be deserted.

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INAUGURAL ADDRESS OF THE REV. GEORGE JUNKIN, D. D.

*President of Lafayette College.—May 1, 1834.*

"That all men are created equal" is a maxim whose truth may not be challenged when the question relates to moral right. To arraign its correctness here, were to impeach the Creator's wisdom, and to lay, at least plausible grounds, for justifying the creature's tyranny. He who "hath made of one blood all nations of men," designed this one blood to circulate through the entire body, and to produce unity of feeling and of action; and thus, to secure to every part of this one body, the full and free exercise of its appropriate functions. That a temporary derangement of the system has occurred, is not to be denied. But that this derangement is temporary, and that the ultimate accomplishment of the divine plan and purpose, in the actual enjoyment, by every living man, of all the rights allotted to him by the laws of heaven, will one day evince the correctness of the principle, we think equally true. The present deranged state of human society can only arraign its present practical truth: it cannot affect it as an abstract and original principle.

The day will surely come, when it shall be known and acknowledged "from the rising of the sun even unto the going down of the same," that as to moral rights, "all men are created equal."

Should we however attempt to carry this axiom of our moral creed into other departments of our nature—we may find that what is true in a bill of rights, may be untrue in a book of facts and philosophy. If we ask whether, in their physical and intellectual qualities, all men are created equal, the mind hesitates. It glances at facts. It perceives here, on the cheek of infancy the freshness and bloom of health, there paleness and disease: here the strength and vigour that promise life and happiness; there the feebleness and frailty that point to pain and sorrow and an early grave. Thus surrounded, there is no evasion, the mind denies the equality of men as to physical properties.

On the question of mental powers, there is greater room for discussion. If you look at men as they are, and deduce your inference from the powers of mind as developed and displayed in their actual conduct, it must be directly and fully hostile to the truth of our maxim, in this application of it. All men have not equality of intellectual properties. They do actually vary. They range widely in the extended field that lies between idiocy on the one hand, and the paradise of angels on the other. From these data the conclusion is against equality of mental powers.

Should however another aspect of the question present itself. Should we be interrogated as to the original powers of mind, or rather of the soul, as it proceeds from the hands of its Creator, the discussion must be more protracted and the decision may probably be different. For it is at least not obvious, that the assumption of the doctrine of perfect equality, would bring its advocates into greater difficulties than those which encompass the advocates of original inequality. The former might find themselves equally as able to account satisfactorily for all present differences between the powers of mind in different men, their original equality

being assumed, as the latter to obviate certain difficulties in connecting their theory with the principles of divine government. As however, it is not my design to discuss the merits and pretensions of either theory, nor even to express an opinion on either; but only, by a statement of the question, to open the way to my own subject—I proceed to remark, that a large amount of the actual difference between the intellectual qualities of adults, has its origin in two sources, viz. the difference in physical constitution, and the difference in external circumstances. It has often appeared to me, that, even upon the hypothesis of original equality of mind, these two causes will go far to explain all the phenomena connected with subsequent diversities.

Two seeds may grow on the same stem, may possess precisely similar qualities, and in equal degrees, and yet, being subjected to different external treatment, may in their subsequent development, become plants or trees, differing exceedingly from each other. Now, what external circumstance is to the germ and tender plant, the peculiar temperament, passions, feelings of his merely animal nature, are to the mind of man.—These are, as it were, external to the intellect, and operate their influence upon its development or the contrary, in a way analogous to the operations of outward circumstances upon the herb of the field. And this analogy runs farther than to mere external obvious circumstances. For very frequently the extrinsic agency by which two equal germs are made to produce very unequal plants, lie hid from our view, as effectually as the feelings and passions escape detection, which militate against the growth of mind. Without therefore becoming responsible for the doctrine that all men are created equal in intellectual powers, I think we may safely aver, that the chief hinderances to education are to be found in the sordid passions of the human bosom, and the overpowering influence of untoward circumstances. If this is tenable ground, then, for the accomplishment of the very desirable work of elevating mankind toward an equality of mental powers, we have to direct our attention to two things—we have to neutralize the poison of corrupt passion; and we have to place the human plant in a soil propitious to its growth.

To the former of these, it will be found proper to give our chief attention: for the plant in question soon acclimates, and by accommodating itself, subdues the ruggedness of nature and flourishes, I had almost said equally under the line and amid polar snows. But the very energies by which this plant achieves this victory of peace, and renders all soils propitious to its own growth, are derived from, at least they are brought into action by the power which remedies the former evil. Extract the root of bitterness and you regenerate the soil. Deposit the seed and you secure its development in a rich harvest of intellectual growth.

My intelligent audience will have already perceived, that I use the term Education, in the literal meaning, which to the honor and happiness of the age, is now the sense commonly received by those conversant with the subject.

It is the art of drawing out, and of course depends largely upon the science of what is within. A knowledge of the principles, good and bad, which are in men

is manifestly of prime importance to him who would draw them out, the one for *instruction*, the other for *destruction*. The sum of Education may therefore be embraced in two words, *Evolution and Instruction*.—That calls forth the dormant energies of the entire man—physical, moral and mental; this trains them to systematic action in the pursuit of right objects; and builds up the entire being into conformity with the law and image of his Maker.

Thus you perceive, we set the mark high. The true and proper immediate end of education, is the perfecting of the human being. Its ultimate end the glory of his Creator.

Now, it is susceptible of easy demonstration, that this drawing forth is effected by the application of proper means, and the legitimate activities of the respective faculties or powers. These are increased only by their own exercise. The bodily senses—the ear for example, arrives at a high degree of perfection in discriminating sounds, by long and diligent practice. So it is with the faculties of the mind and heart. And there is no possible way of carrying these respective parts of the human being onward toward perfection, but by their own activities. The arguments—especially the analogical arguments, in maintenance of this position, are beautiful, and to my mind irresistible. So are they also, in reference to the other position just stated, viz: that proper means must be used to excite those activities. It might be shown that every improvable faculty is furnished by the Creator, with its proper aliment or stimulating principle, by whose seasonable application its activity is to be estimated and its growth secured.

But I press not these topics at present. The public will soon have an opportunity of seeing them more fully discussed in an essay now in press: and they would do well to consult “The Annals of Education,” a periodical edited in Boston by the Rev. W. C. Woodbridge, to whose labours, I presume most friends of this cause in America, feel themselves much indebted.

Without entangling ourselves therefore, in the toils of any philosophical system, we have, as I hope, discovered at least the proximate cause of that disease, by which the human faculties are enfeebled and their energies prevented from development.

Practical educators will agree with us, that the chief obstructions are thrown in the way by sordid passions. That therefore, which will most effectually assuage the tumult of passion and reduce feeling into subjection to judgment and reason, will most effectually subserve the cause of education. If all obstructions to mental, moral and physical growth be removed, and the proper aliment be supplied, enlargement—advancement toward perfection must inevitably follow. Thus the question magnifies its own importance as we advance. How shall this removal be effected? By what authoritative mandate shall this tumultuous sea be spoken into calm? How shall passion be made subservient to reason? By what antidote shall this poison be neutralized?

I answer, by the blood of Calvary. By the omnipotence of truth divine. By the still, small voice of the gospel. By the hammer of God's word, which breaketh the rock in pieces. Religion—true religion—the religion which cometh down from heaven—and nothing but this can do it.

*The influence of religion upon education, is the subject before us.*

Religion is veneration toward God and benevolence toward man. “Pure religion and undefiled before God and the Father, is this: To visit the fatherless and widows in their affliction, and to keep himself unspotted from the world.” Holiness and love.

Man is born religious. A disposition to reverence a supreme being is an essential ingredient in his nature. He would not be man without it. But then, the measure of his correctness and purity in the exercise of this original element of his nature is variant as the climes

which give him birth, the diversities of his complexion and person, and the habiliments that decorate and deform both.

Its purity depends upon its correctness. For it is obvious, that without a knowledge of the divine character, man cannot accommodate himself to it. Any appearance of conformity that might present itself, could only be fortuitous to him and not voluntary: and therefore it could have no moral character. The law must be known—the will of the law-giver must be divulged, before there can be a moral subject responsible to it. And the measure of responsibility runs parallel with the revelation. The clearer his knowledge, the deeper is his responsibility, and if he duly appreciate it, the higher his purity. A degree therefore there must be, in the scale of knowledge, below which, neither the purity nor the love which constitute the sum of true religion can be found. It is not necessary for practical purposes that we should ascertain precisely the position of this degree. It may suffice to know in general, that below it religion degenerates into superstition. The religious principle still abides in man's bosom, but he lacks knowledge to direct its exercise and becomes an Athenian,—too much given to the veneration of inferior beings.

Yet after all, a bad religion is better than none. And perhaps it would induce little peril to enlarge the proposition and affirm, that the checks and stimulants even of the most corrupt religion are not without some beneficial influence in developing the powers of man. At least their removal, except by the better light of a better system, would deteriorate his condition and lock up more effectually his faculties from the possibility of improvement. For our purpose, however, a narrower field is marked out in the affirmation that Christianity affords the only efficacious remedy for all the obstructions to education, the strongest stimulant, to that activity which perfects the human character.

Fully to occupy this field it will be necessary first to point out the manner in which these sordid passions operate their baleful influence. This they do negatively and positively, relatively and absolutely. Every unhallowed feeling in its indulgence and gratification occupies the attention of the mind and diverts it, for the present, from such active employment as would promote its improvement. Now when sinful passions are strong and numerous, and press their claims to frequent indulgence, the drafts upon time must be very heavy. And the voluptuary may find himself fully occupied in meeting their claims, during as many hours in the twenty-four, as can be spared from indispensable rest and recreation. Thus during the period of highest susceptibility of improvement, the warm blooded youth, being a lover of pleasure more than a lover of God, may be dragged on in her toils, a delighted and willing captive, to the total neglect of his mental, moral and even physical culture.

Thus also is it in ripened manhood; which has its peculiar class of sordid passions. Should the love of gain, for example, become strong and demand frequent indulgence, it will carry off the mind ever and anon into speculations of money, calculations of profit, until it degenerates into mere avarice; one of the foulest passions that degrade the human character. Thus the man sets up his gods of gold. He sees nothing, he hears nothing, he thinks of nothing but percentage and bonds and mortgages. With him the sum and perfection of education is the art of getting money. And all the world knows that so far from such a course of action expanding the mind, enlarging the heart, strengthening the faculties and bringing them into conformity with the Creator's likeness—the reverse of all this is the case. The soul of a miser is no larger than the soul of an infant. Now just so far as the indulgence of this or any other sinful affection abstracts the mind and heart from such ennobling pursuits as elevate the character, so

far do they operate a negative influence, preventing the expansion of the soul.

But besides this there is positive injury done to the faculties. It is easy to see how the life of a voluptuary destroys the physical stamina of his constitution, and precipitates him into an early grave. How a man originally endowed with a goodly measure of decision and firmness, looses, under such a course, all his manly independence, and degenerates into the miserable and contemptible thing, whose promise gives no assurance, and whose vows of reform are made to be broken.

Nor is there a whit more difficulty in tracing its baleful influence on the moral sensibilities of the heart.—Thus sordid passions positively enfeeble the powers of body, mind and heart.

I said they produce this effect relatively and absolutely. And it is obvious, that if the faculties of the mind be neglected, and the animal appetites be cultivated, the latter must outgrow the former, and thus the relative proportions are destroyed. Feeling ascends the throne. Passion sways the sceptre. Judgment and reason that formerly ruled, now serve. The dethroned sovereign has become a degraded subject and an humble suitor at the court where all the interests of the empire say he should reign forever.

But this degradation is not relative only. It frequently becomes absolute as I have shown. There is a real loss of power. Perception looses the acuteness of her vision. Moral sense the delicacy of her touch. Judgment and conscience, the energy of their operation.

But why reason in proof of a proposition so plain?—Who that lives, has not lived with the light of its truth flashing in his eyes at every turn? Does not vicious indulgence every where link its destinies with intellectual degradation? Surely no argument is requisite to show that vice and ignorance are twin sisters.

Thus far the disease. Our affirmation is that the religion of the Bible is the only effectual remedy. And this for two reasons. Because it presents the most powerful checks possible, to vicious indulgence. The penal sanctions of moral obligation, indispensable to our social well being, are here fully and forcibly set forth. Let us advert for a moment to the truths on which they rest.

The Bible assumes the existence of one supreme Being, and asserts his leading attributes. It lays down his will as the basis of moral obligation and the standard of human duty. It teaches his immutable, righteous and eternal hatred of all iniquity. It addresses the hopes and the fears of men, while it holds up the glories of eternity as the reward of holy obedience; and the woes of endless perdition as the just retribution of sin. "Say ye to the righteous, it shall be well with him; for they shall eat the fruit of their doings. Woe unto the wicked! it shall be ill with him, for the reward of his hands shall be given him." Motives the highest of which the human mind can form any conception, are addressed to principles the strongest that can thrill the bosom of immortality. If restraint is possible to the evil passions, by these must they be restrained.

Now all this is a religious restraint, whether found in Pagan or Christian bosoms. In character it is the same; in degree the difference is entirely on the side of Christianity. In exact proportion as her development of the divine character and laws is more clear and true, must she in the force of her restraining power, exceed all other religions.

But we have another reason for believing that the religion of the Bible furnishes the only effectual remedy to the evils that obstruct education. She is not simply an anodyne, but an antidote. Other systems restrain corruption, she destroys it. They heal the wound over the top, she up from the bottom. All things characterized for checking vice, she holds in common with others, but in larger measure. She however goes farther. Not content with damping up the current of vice,

and letting its turbid waters off by private sluices, as is too often the case with moral systems of human origin, she ascends to the fountain—she dries up the springs.

He has scarcely begun his novitiate as a student of Christianity, who knows not, that it is a religion which, through the head, enters the heart, and there purifies the fountains of action—that it aims at, and ultimately accomplishes, in all who truly embrace it, the destruction of all sinful passions. "Mortify therefore your members which are on the earth." "Mortify the flesh with its lusts and corruptions." "Be ye holy for I am holy." This work is indeed progressive. It is not accomplished instantaneously. But he who hath begun it will finish it. This is an essential characteristic of its author.

Thus, and only thus are the obstacles to the evolution of the human faculties restrained and removed.—And thus is true religion the friend and patron of literature, science and the arts.

Still, however, we have only seen her extract the roots of bitterness—change the soil from useless and noxious incumbrances. Let us now see what substantial aliment she affords—what stimulating nutriment she furnishes to this plant of celestial origin.

Here, reverting to the doctrine already laid down, we have to inquire what particular things are adapted to give employment to the various faculties of the man: and whether Christianity furnishes them or directs in their proper use. And first as to the education of the physical man, though it cannot be affirmed that the religion of the Bible furnishes them, yet its author does, and it directs to their application. "Use this world as not abusing it,"—"for every creature of God is good, and to be used with thanksgiving." And it is this lawful use of material things, that keeps up and regulates the activities of our physical frame, and leads it toward perfection.

The mind, too, requires its proper stimulus. Knowledge is its food; by whose influence its energies are awaked and kept in healthful action. Now the book of nature lies before it. There it finds much to excite, but little to restrain and direct. Moral aliment, it can derive from this soil, only by the influence of inward monitions of conscience, and rational deductions from effects to causes. It is not until the book of Revelation too is spread before the mind, that it can feel the full power even of mere intellectual stimuli. For the higher grades of science—the loftier departments of human thought—the true nature of God, and even a history of his works, become matter of human knowledge, only by divine revelation. And consequently religion furnishes the strongest food to intellect, whilst it also directs to its legitimate use.

In the moral department of education—in all that which relates to the culture of right feelings—of holy affections, Christianity stands humbly, but gloriously pre-eminent. She rectifies the heart, and gives most unbounded scope to its affections. She implants in the soul the germ of heavenly charity, and furnishes the most abundant means for its culture and growth. Proclaiming peace on earth and good will toward man, she holds up to their admiring gaze the illustrious example of "the Word made flesh"—the living energies of love divine dwelling in the man of Calvary. This love it is, that constitutes the essence of religion. This the life of God in the soul of man; which like an omnipresent spirit, pervades the whole of his being, arouses all his slumbering energies, and calls them forth to unwearied activity in the holy and heavenly work of promoting the blessedness of man and the glory of his Maker.

Allow me here to append another reason evincing of the tendency of Bible religion to foster education. I refer to that precept of the divine law whereby one seventh part of the whole time is appropriated to mental and moral improvement. A man who lives to the age of seventy years, according to the religion of the Bible, must have spent ten whole years in exclusive

devotion to the development of his moral and intellectual powers, this too under the influence of direct accountability to God. What a power such an institution must operate! How clear must be his views of the divine character, laws and government; of the relations of man to God, of God to man, and of man to his fellow, who has spent ten years in the study? Verily the faithful observance of the law of the Sabbath is of itself alone adequate to redeem man from the bondage of ignorance, the chains of superstition and the tyranny of unrighteous domination. *No Sabbath keeping nation can be uneducated, unenlightened in the knowledge of human duties and human rights, and indisposed to practice the one and assert the other.* For one whole day in seven has the religion of God's word made even every servant, however debased, free from the exactions of his master.—Blessed day! educator of the poor, and deliverer of the oppressed.

Thus, my friends, we see that the restraints of religion, its purifying influences and its soul animating energies, are all admirably adapted to ennoble the faculties of man, and to build up his entire being into the likeness of its author.

Agreeably to this view of the subject, we should expect, that the interests of education and those of religion must be always found to flourish or to languish together. That in proportion to their approximation to Christianity, must be their improvement in knowledge among pagan nations. That, in Christian countries, the warmest friends of education should be found among those who have taken up the cross: and the school, the college and the church be accounted but successive degrees in the same ascending scale.

Now on all these points we are willing the faithful page of history should speak. The witnesses we cannot now cite at large. To their testimony we can only in general terms refer. And we think the reference will invariably sustain our position. Where, we ask, is the church in whose vicinity no school is taught? Where is the Christian, sincere and true, who opposes education? Who have always stood foremost in this cause? What nation ever sunk in the scale of intelligence, as she arose in Christian attainments? Did paganism ever dream of extending literature and science to the whole mass of her population? And who in Christendom, have founded halls of literature and temples of science? In our own blessed land, Who, Who, but the friends of religion? Where is the college, whose foundation was not laid, and its walls reared by the friends of religion? But I forbear. The point is conceded. Truth has her triumph. The trophies of her victory she lays at Emanuel's feet. Her ivy wreath she weaves as a chaplet in the crown of his thorns.

In corroboration of these views, may I allude to the history of this institution? May I turn your eye to this Alma Mater, sitting desolate and forlorn on this lonely mountain. See! she extends her hand and once and again woos the genius of lone science to become companion of her loneliness. But to no purpose. Again she throws open her arms and invokes the genius of literature—in vain. After many discouragements and long delay, she lifts her tearful eye and directs an imploring look toward the genius of Christianity, when lo! what do our eyes behold? She who sat solitary and desolate, springs from her dust, in the freshness of youth and beauty, and takes her station amid the matrons of the land, rejoicing in the fullness of her household, who rise up and call her blessed!

Yes, my friends, this College owes its practical existence to the religion of Christ, and let it be your concern and ours, to see that its government be ever conducted on the broad basis of the common Christianity. The want of religion has destroyed many a College, by converting it into the hot-bed of vice. The example is rare, if it exist at all in our country, where a college but moderately endowed, has ceased its operations from

any other cause than want of *moral stamina*. Permit me then to unfold in few words, the principles on which we intend to proceed here, and I have done.

The government is, and we hope will ever be, paternal. Love and not fear, except such fear as is consistent with love, is the ruling principle. Conscience toward God and toward man, we hope will ever characterize this institution. It is a government of law—of moral power, and not of brute force. Hence, we have little to do either in making or enforcing laws. Our laws for substance are in the Bible, and their application in the consciences of the governed. Our constant reference is to the illustrious example and the golden rule of our Saviour: "All things whatsoever ye would that men should do unto you, do ye even so unto them." Such being the grounds of our dependence, we of course feel it to be of commanding importance to keep religion pre eminently before the mind. In imitation of the great German philanthropists, to whom education as a science is so much indebted, we teach religion as being the only solid basis of morality. This is done in a familiar conversational Bible class exercise, and a public discourse once each Sabbath. Besides these, the students, as a family, unite in devotional exercises, such as choose, participating in them. They also are expected to attend public worship on the Sabbath, out of the institution, at such place or places as they or their parents may choose.

Such is the simple system of moral regimen under which this college has prospered thus far—so purely Christian and so openly liberal, that even sectarian bigotry, with all its twisting and turning, cannot feel itself cramped, or its liberties curtailed.

It is moreover a circumstance peculiarly felicitous, and for which the friends of Lafayette can never be sufficiently thankful, that a very large proportion of her sons at present are decided friends, not only of good order, and sound morality, but also of that practical religion on which they rest. This gives a vigor to the tone of its morality, which frowns upon vice and it dies. Open immorality is here utterly intolerable, and we have never found much trouble in its exclusion.

With such materials in its foundation, who can doubt the stability of the structure? With such an amount of bone; sinew and nerve in the body, who can doubt its healthful, vigorous, permanent and profitable action? Looking, as from its peculiar characteristics and plans, it must ever do, to the middle and humbler walks of life for its successive supplies of youth, can it ever fail of filling these capacious halls with the flower of the land and the hope of the nation?

## COAL TRADE.

Amount of Coal shipped from the Schuylkill, Lehigh and Lackawanna regions, up to the first of September, 1833, viz:

Schuylkill,	169,510
Lehigh,	70,294
Lackawanna,	60,270
Total,	300,074

Shipped from the same regions up to the first of September, 1834, viz:

Schuylkill,	121,373
Lehigh,	70,911
Lackawanna, none.	
Total,	192,284

Decrease in the supply for 1834, 107,690 tons.

Miners' Journal.

METEOROLOGICAL REGISTER.

Extract from the Meteorological Register, taken at the State Capitol—Harrisburg, Pennsylvania,

By JAMES WRIGHT, Librarian.

MAY, 1834.

Days of the Month.	Days of Week.	Morning temperature.	Noon temperature.	Even temperature.	Mean temp. of day.	Morning height.	Noon height.	Evening height.	Mean height.	Winds.	State of the Weather.
Thermometer.					Barometer.						
1	Thursd'd	46	60	61	56	29.60	29.60	29.60	29.60	NE	Cloudy day
2	Friday	46	64	62	57	67	70	70	69	NE	Sun and clouds
3	Saturday	52	69	63	61	90	95	95	93	NE	Clear day
4	Sunday	52	69	68	63	98	98	88	98	S	Sun and clouds
5	Monday	50	50	50	50	80	70	60	70	NE	Rainy day
6	Tuesday	50	65	65	60	77	77	77	77	NE	Sun and clouds
7	Wednesd	55	57	60	57	56	55	50	54	NW	Rain—sun and clouds
8	Thursd'y	48	60	60	56	63	63	63	63	S	Sun and clouds
9	Friday	53	65	59	59	79	75	73	76	S	Sun and clouds—rain
10	Saturday	49	63	61	58	80	80	80	80	W	Clear day
11	Sunday	46	69	70	62	74	59	47	60	SW	Sun and clouds
12	Monday	56	60	50	55	47	60	63	57	NW	Sun and clouds
13	Tuesday	43	50	46	46	64	80	84	76	NW	Sun and clouds
14	Wednesd	38	56	57	50	86	74	74	78	SW	Sun and clouds
15	Thursd'y	34	49	50	44	98	98	98	98	NE	Clear day
16	Friday	36	55	68	53	30.12	12	12	30.12	NW	Do.
17	Saturday	42	65	70	59	20	16	10	15	SW	Do.
18	Sunday	50	75	75	67	12	15	10	12	SW	Do.
19	Monday	60	86	80	75	6	30.00	30.00	02	SW	Do.
20	Tuesday	64	80	77	74	29.97	94	94	29.95	SW	Smoky
21	Wednesd	66	84	84	78	94	94	94	94	SW	Smoky
22	Thursday	65	86	80	77	94	94	85	91	SW	Clear day
23	Friday	65	86	83	78	85	85	85	85	S	Do.
24	Saturday	67	86	80	78	70	70	70	70	S	Clear—cloudy
25	Sunday	68	86	84	79	70	70	70	70	S	Sun and clouds
26	Monday	70	79	70	73	70	67	67	68	NE	Cloudy—rain
27	Tuesday	63	80	74	72	67	63	63	64	S	Cloudy—Clear
28	Wednesd	65	63	60	63	60	55	59	59	E	Drizzling rain
29	Thursday	55	65	60	63	55	54	53	54	NE	Rain—cloudy
30	Friday	59	79	73	70	59	63	66	62	SE	Sun and clouds
31	Saturday	65	73	70	69	70	77	77	75	SE	Sun and clouds

Thermometer.					Barometer.				
Maximum on the 24th,	-	-	-	-	79°	Maximum on the 16th,	-	-	30.15 inches.
Minimum on the 15th,	-	-	-	-	44°	Minimum on the 28th,	-	-	29.54 "
Difference,	-	-	-	-	35°	Difference,	-	-	00.61 "
Mean,	-	-	-	-	63°	Mean height,	-	-	29.78 "

A DISCOURSE DELIVERED BEFORE THE LAW ACADEMY.

A discourse on the Nature and Study of Law; delivered before the Law Academy of Philadelphia. By WILLIAM RAWLE, L.L.D.—Published by order of the Academy.

Gentlemen of the Law Academy.

I have always taken an interest in the progress and success of your Institution.

I have marked with delight your ardent attachment to a regular and combined pursuit of forensic knowledge, and from time to time have witnessed in those who have successively left you for practice at the bar, the advantages they have derived from that generous emulation, which always proceeds from, and always rewards, the united direction of many minds to one subject.

Circumstances have prevented me from becoming, as you once did me the honor to propose, one of your im-

mediate officers, but nothing has abated the lively interest I have always felt for your success.

To receive and to assent to the request of your committee were with me simultaneous acts. I cheerfully present to you some reflections on the nature and study of law, in which I shall endeavor not to mislead if I should fail to instruct.

Law, in all its divisions, is the strong action of Reason upon wants, necessities, and imperfections. No matter whether its ministration is by a legislative or through a judicial faculty, or by the consentaneous acts of individuals under no manifest compulsion; it is still the act of those on whom it has pleased divine Providence to bestow the attribute of reason, as distinguished from those who are guided only by instinct, and can make no rules for themselves.

It is founded on a power granted to us by the greatest of beings, for the wisest of purposes; a power given to us for the promotion of our happiness, to be

used, not to be abused; to be employed, not to be neglected.

Society, without law, would be a surly mass of incongruity and disorder. Rapacity would efface the lines of property, and personal imbecility would fall a frequent victim to violence. The character of law in the abstract is, therefore, to regulate all we *do*, and all we *say*; *thought* alone is exempted from *its* power. As a pure emanation of the Deity, it embraces the moral universe, and acts on all visible subjects; it adapts itself to the successive changes of unessential form, but in its principles, it is immutable. It is always reason operating upon action; no study of sublimary things can be more sublime in itself, or to us more useful. In its direct precepts, we find the guide that we ought to follow; in its minatory prohibitions, the evils that we ought to shun. Thus all mankind are interested in the text, but it is the proper duty of a few to expound it.—For, although some, without study or instruction, may hastily conceive that as reason is the common property of all, it is in the power of all to discover and apply its principles, yet to apply them beneficially and correctly, requires a knowledge of rules that have received the sanction of times past, and have been the result of the combined reflections of wise men. The rashness of unassisted judgment too frequently leads to error, and hence, in all civilized countries, the law has become a profession of the first importance.

From those who devote themselves to it, much is expected. One of the greatest virtues of law is *certainty*. The rule which was laid down yesterday should in a parallel case be enforced to-day, and the yesterday of the law may be of many hundred years back. Wide, it is true, is the difference between the habits and manners of the present times and those of old, when the Norman conquest presented on the surface of England only the strong castles of a ruffian nobility, or the humble cottages of their oppressed dependents, when there were little commerce and no monied institutions. But even up to those times we trace rules and principles of what we term the Common Law, applicable to more equality of condition, to extensive commerce, and its natural consequence, an increased quantity of personal wealth. As we descend the current of time, we approximate every day more nearly to present habits and modern necessities: of these gradual changes, the lawyer is obliged to possess himself, and the judge, who would disregard them, would know little of his duty. It is emphatically for him to retain and apply in all their strength and majesty, the profound maxims which have descended to us, and such are the constant efforts of well regulated tribunals. On no other ground can the counsel advise, or the suitor repose with safety. To review past decisions, to discover their principles, adapt them to the immediate exigency, and present them with due force to the eye of the judge, is the office of the lawyer. Although it has sometimes been satirically urged that the uncertainty of the law is the treasury of the lawyer, yet it is clear that the safety of the public depends upon its certainty. Reduce the decision to a game of chance, poise it on the will of an unrestrained tribunal, the whole frame of civil society will be shaken, and the measures of redress will be perceived only in the triumphs of personal superiority. To establish certainty in the law is therefore alike the interest of the public and of the profession, and the efforts of opposing advocates ought only to be aimed at assisting the judge to discover in what quarter it may be found.

In statutory systems, there are positive mandates, but the wit of man has not yet succeeded in framing language, which may not be differently interpreted. Brevity is often obscure, and amplification does not always elucidate. As time passes on, the statute becomes the subject of renewed examination and debate, and the judicial commentaries upon it acquire the same authority as the legislative procedure. This is the conceded and salutary result of having recourse to a pow-

er more ancient in its origin, more universal in its effect, of which the force is tempered by its benignity, and the scope is confined only by the bounds of moral existence. It is scarcely necessary for me to explain to what power I allude. Some writers among us have supposed that when we speak of the Common Law, we mean the technical system of England. But the philosophic mind contemplates under this appellation, a ruling and pervading spirit confined to no locality, superior to the corrosion of time, implanted in the heart of man with a lustre never dimmed, and an energy never exhausted. Wherever man in a social state exists, this law must be found, and it would not deserve its generic application, if society could exist without it. It is the unwritten but universal law of man. Bracton alone, of our early writers, has strangely asserted that an unwritten law was peculiar to England, and in his well known treatise *de Legibus*, &c. observes, that "*Cum autem fere omnibus regionibus utantur jure scripto, sola Anglia usa est in suis finibus, jure non scripto, et consuetudinibus. In ea quidem (that is in England) ex non scripto jus venit.*" One would suppose that he had never seen the institutions of Justinian, when he used this language. In the first chapter of these institutions we are told "*Constat autem jus nostrum quo utimur aut scripto aut sine scripto,*" and after describing the various kinds of written law: the unwritten law is defined as follows, "*Sine scripto jus venit quod usus approbavit, nam diuturni mores, consensu utentium comprobati, legem imitantur.*"

Yet the first paragraph in Bracton's book is almost a transcript from Justinian, and he borrows from the latter the three great precepts laid down as the principles of all law. *Honeste vivere, alterum non ledere, jus suum cuique tribuere.*

Bracton has added the word *jus*, which might have been spared. It narrows without improving the definition. In those days less written law was to be found as one advanced beyond the bounds of the Roman empire. Even in France the country was divided into the *païs de droit coutumier*, the districts subject to customary law, and the *païs de droit écrit*, that part which was governed by written law. The latter was the southern part of France in which the Theodocian Code prevailed, but where a common law still supplied what was not to be found in writing. In the north, however, where letters were less cultivated, the customary, the unwritten law was the governing rule, and England could not justly boast that she alone acknowledged its obligation. Sir Matthew Hale stops short of Bracton's entire exclusion of other nations from the benefit of a common law, but with some national bigotry asserts, that it is singularly accommodated to the frame of the English government and the disposition of the English nation.

It is in the operation of this moving and enlightening spirit distinguished by truth, and embosomed in justice, that we have to learn much of our duties, and find much of our safety.

It is not at the dry text of the statute that we ought to stop: we are to inquire how it has been expounded, and to what it has been held applicable. Our knowledge is imperfect till we ascertain the effect of the common law upon the statute, or of the statute on the common law. Every statute of a general nature, may indeed be considered at first as having some effect either upon antecedent statutes, or on the common law: more declaratory statutes are alone excepted. But the common law is a watchful guardian, and seldom unprovided with arms for the purpose of repelling incautious or unjust invasion. The statute *de donis* was a strong act of legislative power. You all know how inefficient it has been rendered by judicial decisions. Hobart, in his reports observes, that "Statutes are every day by the judges extended, restrained, and changed according to a better rule of reason and justice than the words will bear," and of this we have

among ourselves a striking instance in the recent case of *Wain v. Shearman*, 8 Serg. & Rawle, 337.

The act of April 3d, 1804, had declared that no action should be brought by the original owner of land sold for taxes after the expiration of five years from the commissioner's "sale thereof." Two years afterwards, another act was passed regulating proceedings in ejectment, which, if the defendant resided out of the country, rendered it impossible to sustain an ejectment against him. In such a case, therefore, whatever might have been the irregularity or injustice of the county sale, the original owner was deprived of his land.—When the case came before the Supreme Court in 1822, they redressed the evil by what may almost be termed, an act of positive legislation, they substituted the words "actual possession" for the word "sale," and the legislature has since, in the act of March 29, 1824, with a preamble amounting to a virtual recognition of this judicial power yielded to their construction. Yet positive legislation may sometimes be irresistible. Thus a law altering the course of descents must be conformed to. The eldest son in feudal times, succeeded to the landed estate in military tenures, and the same rule was extended by analogy to those of an inferior nature, but the policy of an infant colony dictated a different rule to the sagacity of William Penn. In this respect he invaded no vested interest, although mere expectation may have been disappointed by distributing the share, anticipated by the eldest son, among all the children.

In positive legislation, the will and pleasure of the constituent are supposed to be manifested, and their interests to be consulted. But in one respect the judicial power professes an indisputable right of control. Wherever the blessing of a written constitution exists, the common law prescribes that the legislature shall not exceed its delegated power. This restraint never appears on the face of the constitution itself. But, if it could not be found somewhere, it is obvious, that the legislative body might soon become absolute tyrants.—The safety of the people in this respect, is enshrined in the judicial branch of government. By merely the nominal institution of a judicial power, the people recognize the salutary principle of which it is the organ—a principle not created by the constitution, but existing before the constitution was formed. It could not even by any express language be repudiated or suppressed for it can only be extinguished by the extinction of society itself.

Thus, when the splendid and unparalleled Constitution of the United States was formed, the only expression in respect to this subject used, was, "the judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the Congress may from time to time, ordain and establish."

The judicial power was by these words declared, not defined. Its functions and its duties were too well understood to require description. It was known to be a necessary check upon legislative and executive action. It was seen that it was a correct and certain, and the only correct and certain restraint upon possible excess. We may easily conceive the danger which would have hovered over us from a total omission of such a clause. Then, indeed, every state might plausibly have undertaken to decide for itself on the validity of every act of Congress, every measure of the executive power, and as local interest or local habits and opinions prevailed, the execution of a law might be resisted in one state and submitted to in another. Every lover of his country must be shocked at the view of such a nerveless government, professing power which it did not hold, and could not execute. A legislature whose acts were not laws, an executive whose measures, however wise and salutary, might in any state of the union be resisted with bold impunity.

Greatly, indeed, must the principles of our constitu-

tion be misunderstood, if it is supposed that this direct declaration of a judicial power being inherent in it, does not admit of and does not require the full extent of that power to all subjects justly falling within its cognizance—or if it should be supposed not to exclude every other mode of taking cognizance of the validity of legislative acts.

We may, however, in the vicissitudes of "many coloured life" suppose a case of apparent difficulty—we may suppose that a legislative body, notwithstanding one of its laws has been judicially declared to be unconstitutional and void, yet perseveres in its views, and renews the enactment. Where will obedience then be due?

In such a possible, but improbable, case a new view of the character and extent of the judicial power would be presented. A law constitutionally made is to be enforced by the executive authority; the judiciary in a certain sense is part of the executive power, but it possesses a necessary and constitutional control over both the legislative and executive powers. If the executive power forgets its duty in regard to valid laws, the judicial power when the case is regularly brought before it, can afford relief, but if the executive power attempts to enforce an act of the legislative body, which for the reasons before given, the judiciary finds to be void, the executive act is declared to be indefensible, and the judicial tribunal yields redress. It then, in a degree, partakes of the legislative character, and by refusing to concur in executing the obnoxious statute it virtually repeals it.

Such are the peculiar faculties and extraordinary attributes of a primary power, commencing with the elements of society, and which nothing but violence or folly can decompose or destroy. It springs from common law, and common law leans on it for support.—Ambition may sometimes resist it—fatuity may sometimes misunderstand it, but the virtuous lover of his country's peace must ever cherish and revere it. By you and by those engaged in similar pursuits, it ought to be closely studied and distinctly comprehended. Destiny may hereafter place some of you in seats, in which the performance of these high duties may be required, and I may fondly hope, that among you will then be found other *Marshalls*, other *Kents*, and other *Tighams*.

Law is ever blended with history. A contemporaneous view of the habits and state of society is requisite to enable the student to comprehend both the common law of the period, and the statutes made at the time. One or two instances in both these respects will explain the remark.

At present, the full age of all persons indiscriminately is twenty-one years. We are, at first, surprised to find that in the reign of Henry II. when Glanville wrote, the full age of heirs of land depended on the tenures, by which the land was held. If it was of a military nature, twenty-one years must have been attained before the heir could enter, but if it was the inferior tenure of socage, his minority expired at the age of fifteen, and in the still more ignoble burgage tenure, the disabilities of infancy ceased as soon as the party could "count money, measure cloth, and in like manner manage his father's concerns." We must consult the page of history to account for these discrepancies. There we shall find that baronial power and baronial interests outweighed almost all other considerations. When even the crowned monarch felt himself feeble before his stern and powerful nobility, the sokeman and the burger were despised. The lord, who in these cases was ultimately accountable as guardian for the profits of the land, gained nothing by the prolongation of their minorities, and an early or an arbitrary epoch was fixed because in baronial estimation, it was of little consequence at what period one might be deemed fit to conduct his husbandry, or the other to sell his wares. In process of time the Saxon rule was resumed, and

Handwritten note: "The judicial power is a part of the executive power, but it possesses a necessary and constitutional control over both the legislative and executive powers."

twenty-one years became the general measure of imputed discretion.

History, which informs us so fully of the military propensities of the age, enables us to account for the forms, which Glanville tells us, were constantly used in pleas to the king's courts. The trial by battle was uniformly demanded, and until the benevolent introduction of the assize by Henry II. the defendant was obliged either to accept this mode of deciding the controversy, or to confess judgment for the demand.

Superstition was blended with military habits. The intervention of Providence in favor of the party injured was confidently relied on, and the influence and arts of the clergy who possessed almost all the learning of the day, were exerted to keep up the illusion.

In *Bracton*, who followed Glanville, other instances may be found, which at present I forbear to advert to. *Bracton* wrote in the reign of Henry III. *Fleta* succeeded to *Bracton*.

The author of this treatise is unknown. It has been supposed by some, that he was one of the judges whom Edward III. on his return from France, committed to prison on account of their misdeeds during the disturbed reign of his father, and Selden quotes the following lines from an old rhyming chronography—

"Le Roy Edward  
A son repoir trova par plainte presente  
Ses justices et ses clerks attaints defaussetes,"

in consequence of which it is said, that many were committed to the tower. The Fleet prison, though now only a receptacle for debtors, was then also a place of confinement for state prisoners. The premium of the work describes it as "*in Fleta compositus*"—and if the author really was one of those delinquents, he nobly atoned, by a work so excellent, for his former misdeeds.\*

I will content myself with one instance from *Fleta* to show, that what was then a rule of common law as a mode of proof, would now, from the change of manners, be considered as no proof at all. "*Probari autem poterit carta alio modo quam per testes et per patriam sicut per collationem sigillorum.*" Britton, who is believed to have written about the same time, gives further information of the importance then attached to a seal.—"The defendant (I translate literally from the uncouth Law French) may say, that this writing ought not to bind him, as at the execution of it, he had lost his seal, and he had caused it to be cried and published in churches and market-places, and that nothing was done with such seal after a certain day when he lost it, and in this manner he may deny the deed, and thereupon the truth shall be inquired by the vicinage, where the deed is said to have been made, and if by the verdict, he shall be found a liar, he shall be adjudged to prison and punished with a fine."

In the reign of Henry III. usury, or the lending money upon interest at any rate high or low, was deemed so great an offence that on the death of an usurer, all his personal effects were considered as forfeited to the king, and were generally seized by him. The reason of this is well explained by Barrington. Our early ancestors having little or no personal property, land owners were jealous of the fortunes, which were sometimes raised by such practices, and disliked the increase of personal estates.

Adverting, in the next place, to ancient statutes, we shall in like manner perceive the necessity of a knowledge of contemporary history.

One of the first articles of the statute of 9, Henry III.

\* Dr. Collin, the erudite and worthy missionary from Sweden, once suggested to me, that as the word *Fleta* in the Saxon language, signified a garland, the title might have been quaintly adopted by the author to signify a collection of the heads of the English law. But the etymology of the word is of little consequence.

which the English delight to consider as the strong hold of their liberties, cannot be understood without a knowledge of the state of things at the time. "*Custos non cupiat de terra hæredis nisi rationabiles exitus et hoc sine destructione et vasto hominum et rerum.*" An historical knowledge of the existence of villeins in those times is absolutely necessary to explain the word *hominum* in this sentence. Distance of time suppresses or impairs our abhorrence of the tyranny which commenced, or the selfishness which continued an odious and unfeeling system, by which great portions of the people were degraded to the condition of brutes, and this without the sophistry by which the slave-holder, in these days, strives to calm his conscience; for the villeins were natives of the same soil, and wore the same complexion with their lords.

Who can understand the 28 cap. of 4. Henry IV. that "no congregation shall be made by the Welshmen in any place of Wales;" or discover the reason of some other statutes made at the same session, unless he knows of the formidable insurrection which had taken place in that part of the kingdom, where the "irregular and wild Glendower" gave so much trouble to the usurping Bolingbroke?

It is needless to quote more instances. No one can fail to perceive how important it is to be well acquainted with the early history of England, and on the same principles, with that of our state from the time of its provincial inception. In the migration to this country, a coherence with the British empire, its government and laws, was our main foundation; we continued to be bound by the same laws, which prevailed in the mother country so far as they were applicable to an infant colony, possessing few inhabitants and little property. In many particulars those laws, either by express enactment or necessary consequence, remained obligatory and entire; but one great change, already noticed, seemed to require an immediate legislative hand. Except this innovation, the tenure of lands was unaltered. The province itself was expressly granted to Wm. Penn "to be holden of the king in free and common socage by fealty only," and none of the grants made by the Proprietaries or the state, indicate any other tenure. I notice this particularly, because in a late work entitled the *Law of Decidents*, which may probably fall into the hands of students, it is suggested that our tenures are *allodial*, and in an edition of Justinian's Institutions by a gentleman of high literary reputation, the same suggestion also appears. But we know nothing of allodial estates in Pennsylvania: they could only be created, as in New York they have been, by an act of the legislature.

Ours is the peaceful tenure in socage with all its regular incidents. Those who advocate an opposite doctrine, have not perhaps very closely considered the nature of feudal tenures, and their attention has probably been confined to that part of them which relates to military services. The whole origin of feudal tenures was indeed military. The subject is extremely well explained in Sullivan's lectures on the constitution and laws of England, a book little read, but forming, in my opinion, an excellent introduction to the 2d volume of Blackstone's Commentaries. Whether the Saxon tenures were or were not of this nature, is a point on which a variety of opinions has existed. It is, however, certain that from the conquest till the restoration of Charles II. they prevailed as the general system, not only within the island of Great Britain, but in its dependencies, and if we admit the doctrine on which all the continent of America was settled by our European ancestors, i. e. the right accruing from discovery, the feudal principle attached immediately on that discovery, and the land became vested in the Sovereign whose flag was borne by those that first took possession in his name. The king thus became in point of law, the universal lord and supreme proprietor to all the lands in his extended, as in his original kingdom, and no one could hold any part of

B. A. Mitchell.

it otherwise than as immediately or mediately derived from him. On this principle Wm. Penn received the whole province as a feudatory of Charles II. and as well in his favor, as for the convenience of purchases under him, it was expressly declared in the charter that the statute of *Quia emptores terrarum* shall not extend to Pennsylvania. Every purchaser of Penn. then became the feudatory of Penn. and in this condition we were found at the time of the revolution. The general effect of the declaration of independence on the whole continent was to substitute the commonwealth for the monarch. The Penn family then became the feudatories of the commonwealth, and we all continued the feudatories of the Penns, and in this relation we should continue to stand at the present moment, had not the act of Nov. 27, 1779, been passed. During the heat and rigor of the war, the legislature conceiving that the great estate still held or claimed by the descendants of Wm. Penn. was "inconsistent with the safety, liberty and happiness of the people," divested them of the whole excepting only what, before the 4th July, 1776, had become their separated private property.

If the ancient relations had continued, the sovereign of England could not have done the same for the same cause, and if the Proprietary family had not accepted the compensation offered in the same law, but had availed themselves of the judicial tribunals which in 1791, were in full action, it is not improbable (I speak as a lawyer,) that the whole of this great estate might have been recovered by them, but such a procedure would have excited much ill-will, and perhaps have greatly retarded the increase of our population. Their acceptance of compensation under the act of April 9th, 1791, is therefore to be considered as a beneficial arrangement to all. The most scrupulous mind is thus satisfied, that the titles derived from the commonwealth since the 29th of November, 1779, may be conscientiously held and enjoyed.

These titles are all of a feudal, and not of an allodial nature.

In the grants by the Proprietaries, the tenure may be considered as expressed; in those of the commonwealth it is implied. The *habendum* in the latter is "free and clear of all restrictions and reservations as to mines, royalties, quit rents or otherwise; excepting and reserving only the fifth part of all gold and silver ore for the use of the commonwealth," &c. The Proprietaries had been in the habit of reserving three-fifths of all royal mines, (meaning gold and silver mines) free of the charges of digging and refining the same, and one-fifth of the ore of all other mines; a quit rent of one penny sterling per acre, was also reserved. In all respects therefore, except mines and quit rents, the purchasers from the commonwealth took an estate of the same nature as that which it was usual for the Proprietaries to grant. This will clearly appear, when we advert to certain incidents properly belonging to feudal tenures alone, and to which all our lands are subject.

1. The case of Escheat which Blackstone justly considers as flowing from feudal tenure. Forfeiture for crimes was part of the law of Rome, existed in England in the time of the Saxons, and was derived by them from the ancient Scandinavian constitution,\* but escheat, he says, must undoubtedly be reckoned the fruit and consequence of the Norman tenures.

2. The feudal doctrine of the corruption of blood was part of our law. Its express exclusion in the constitution proves, that without this humane provision, it would have continued in full force.

3. The distinction between real and personal property, so strongly marked with us, is unknown to the civil law. Our doctrine of descents is founded on the feudal seisin of the land. By the civil law there is no distinction in what they term the succession to movea-

ble and immoveable goods, or what we call real and personal estates.

4. By several acts of assembly which I need not to enumerate, specific provision is made in certain cases of intestacy, but in all instances not within the express scope of those acts, we resort to the feudal principle, and the eldest son, or the daughters in coparcenary, or the eldest collateral relation takes the whole.\*

5. The incapacity of aliens to take and hold lands is perhaps exclusively a principle of feudal law. In Louisiana where feudal law has been introduced, aliens may take and hold as freely as native citizens, but it is believed that in all the other states of the Union, certainly in Pennsylvania, land cannot be held by an alien unless by particular legislative provisions. The land conveyed to an alien, escheats to the commonwealth on the feudal principle that the commonwealth is the chief lord of the fee.

To these might be added the uniform language both of our statutes and judicial proceedings. In the phrase "seized in his demesne as of fee," what is meant but a feudal seisin? To what do the well known rules respecting a freehold, or the fee being in abeyance refer, but to a feudal tenure?

Without going further, we seem now to have a full demonstration, that the supposed existence of allodial tenures among us at any time, is an error, adopted without due consideration, and against which it is a duty to warn the student.

Let it be our study not to hazard the introduction of new theories and systems, but to understand and enforce those which we have received from our predecessors. Ours is not a science for the displays of fancy and imagination: the muse of poetry is not entitled to a seat in the temple of Themis: the trite phrase of *stare decisis* with a due allowance for the changes produced by time, should ever be our motto, and it will be a sufficient employment of talent and industry correctly to ascertain what are the *res decidæ*.

In concluding this address, let me not resist the strong impulse of my own heart in paying a small tribute where it is justly due.

It is almost half a century since the commencement of an acquaintance, and the formation of a friendship, with your learned and amiable Provost, who after fighting the battles of his adopted country, immediately turned his attention to the study of her laws. Neither the variety of his literary pursuits and accomplishments, nor the pressure of age, have interrupted the continuance of his devotion to this exact and interesting science.

May you, my young friends, imitate his example.—May you all be convinced that those who, unlike him, relinquish the improvement of the mind before its faculties have failed, will find, in the torpor of age, neither dignity nor happiness.

From the Philadelphia Gazette.

## PROCEEDINGS OF COUNCILS.

Thursday evening, Sept. 11th, 1834.

### SELECT COUNCIL.

In the absence of the President, Mr. MEREDITH was called to the chair.

The annexed communication from J. R. INGERSOLL, Esq. was read, and, on motion, accepted.

Dear Sir:—I must ask the favor of you to present to the Select Council, my resignation of the seat which I have the honor to hold in that body. It is not without reluctance that I yield to the necessity, which I have for a long time felt to be an imperative one, of withdrawing from an intercourse which has been in all respects

\* 4. B. C. 384.

2. B. C. 253.

\*Johnson vs. Haines, 4 Dallas, 64.

Cressor vs. Laidly, 2 Binn. 279.

Tenks vs. Backhouse, 1 Binn 91.

agreeable, and from duties which have been cheerfully, although most imperfectly performed. But I am conscious that a due attention to those duties cannot be reconciled with the professional obligations in which I am involved.

Were I to delay the measure now taken beyond this evening, sufficient time might not remain for the requisite notice preparatory to the general election. I therefore avail myself of the present opportunity to take leave of my fellow members and to beg their acceptance of the expression of my most cordial esteem and respect.

I am, very faithfully, your friend and servant,  
J. R. INGERSOLL.

JOSEPH G. CLARKSON, Esq.  
Clerk of the Select Council.

Mr. Price presented a memorial complaining of the stand for fish wagons, at Eighth and Market streets, as a nuisance, and praying that the same may be removed. Referred to committee on markets.

The Chair submitted a communication from Joseph Rafn and Samuel Hufty, in relation to a suit between them and the late Stephen Girard, in the issue of which the city is now interested. It was, on motion, referred to a joint special committee, and Messrs. Eyre and Lewis, appointed on the part of the Select Council. Common Council concurred, and appointed Messrs. Chandler and Firth:

Mr. Price offered the following preamble and resolutions, which were adopted, and Messrs. Price, Neff and Lewis, appointed a committee.

Whereas, The Select Council having received from Joseph R. Ingersoll Esq. a resignation of his right of membership in this Council, be it resolved that in the acceptance of said resignation, the members of this chamber experience a deep and sincere regret at parting from one, whose faithful and uniform discharge of all the duties of a member, has strongly attached him to our individual friendship.

Resolved, That the thanks of the Select Council be returned to Joseph R. Ingersoll, Esq. for the dignity, fidelity and impartiality with which he has presided over the deliberations of this body, during the last two years.

Resolved, That a committee of three members be appointed to communicate the foregoing resolutions to Jos. R. Ingersoll, Esq.

Mr. Groves, from the committee on the Broad street Rail road, to whom the subject had been referred, made the following report:

Report of the committee on the Broad street Rail road, relative to extending a branch of said road down High street.

The Committee on the Broad street Rail road, to whom was referred several petitions for extending a branch of the said road down High street, to Delaware Eighth street

Report—

That petitions have also been referred to the said Committee, for branches down Mulberry, Walnut, and Spruce streets: to all of which, strong remonstrances have been presented to Councils, but to a branch on High street, there does not appear to be any opposition: and although there are without doubt conflicting opinions upon the utility of introducing branches from the main road through the several streets leading therefrom, and from experience it has been found that they interfere with other travelling on the streets of a neighbouring city, where such branches have been constructed, your Committee are, notwithstanding, of opinion, that the principal objections arise from their being introduced into the streets which are too narrow for the purpose. But as High street is sufficiently wide and spacious to admit of the Rail Road without incommoding other travelling, and as there does not appear to be any opposition to continuing a branch down the said street, besides the beneficial effects which will be

produced by disseminating the trade as much as possible throughout that part of the city which is occupied by those who are more immediately concerned in the western trade, and also the advantages which it is presumed will naturally accrue to the property devised to the city by the late Stephen Girard:—The Committee are of opinion that the project should be fairly tested, and therefore recommend the passage of the following Ordinance.

The Ordinance provides for the construction, under the direction of a committee of Councils, of a branch of the Broad street Rail road, along High street, to Delaware Eighth street, one track to pass along the south side, and the other track on the north side of High street. [Laid on the table.]

Mr. Price, from the committee to whom the subject had been referred, made the following report, which was agreed to.

To the Select and Common Council.

The committee of conference, to whom was referred, the amendment of the Select Council to a resolution of the Common Council, which provides for "the accommodation of the Western Watch," at the east end of the market house, being erected in High street, west of Broad street, and was non-concurred in by Common Council, request leave to report.

That the adoption of a resolution, at the last meeting of Councils, directing the City Commissioners to obtain and fit up suitable cellars for the oil of the city, has removed the apprehension of that article being connected with the accommodation of the Watch.

All that will therefore be required for the Western Watch, will be the addition of a room, about 40 feet in length, over the houses for fire apparatus; and, if connected with a public clock and alarm bell, will be an ornamental finish to the front of said Market house.— This addition would probably be completed at less than 1000 dollars; whilst the purchase of ground, and erection of a Watch House, would cost from 10 to 15,000 dollars.

For the present accommodation of the Western Watch, the corporation of the city, is the tenant of Robert A. Caldcleugh, from whom the Western Watch house, on Broad street, was rented January 15, 1827, at 300 dollars per annum; the rent was increased January 15, 1828, to 400 dollars per annum; further increased January 15, 1829, to 500 dollars; and further increased January 15, 1832, to 600 dollars per annum, which is the present rent.

To the erection of a watch house, in one of Penn squares, or on High street, between Oak and Schuylkill 8th street, there appears to be important objections.

Your committee would therefore recommend the adoption of the amendment, made by the Select Council, in the following words, "*And for the Western Watch.*"

RICHARD PRICE,  
LAWRENCE LEWIS,  
JOHN S. WARNER.

Mr. Groves offered the annexed resolution which was adopted:

Resolved that the City Solicitor be directed to give his opinion in writing to Councils, whether they have a right to erect any other building in High street than a market house, as mentioned in the supplement to the act entitled an act to empower the wardens of the city of Philadelphia, to extend the market houses in High street, passed March 19th, 1810, or any other act of the Legislature.

The Select Council in the course of the evening, proceeded to the election of a President, in the room of J. R. Ingersoll, Esq. resigned. Messrs. Eyre and Lippincott, were appointed tellers, who made report that WILLIAM M. MEREDITH, was duly chosen.

## COMMON COUNCIL.

Mr. Yarnall presented a remonstrance against the construction of a branch of the Broad street rail road, down High street. Referred.

Mr. Toland, a petition for re-paving Market street between Fourth and Fifth.

Mr. Chandler, a petition for re-paving Chestnut street, from Sixth to Seventh; and another for re-paving Seventh street between Chestnut and George.—Similar petitions were presented in Select Council.—Referred to Paving committee.

Mr. Yarnall presented the annexed report and documents of the Managers of the Wills' Hospital.

*Statement A.*

Abstract of twenty-nine cases of Patients treated in the Wills' Hospital, from 12th March to the 1st of September, 1834.

<i>Diseases.</i>	Discharged Cured.	Discharged Relieved.	Discharged Incurable.	Remain.	Total.
Cataract, . . . . .	1	1		4	6
Cataract with Amaurosis, . . . . .		1		1	1
Amaurosis, . . . . .		1	1*		2
Amaurosis with Ptosis, . . . . .	1			1	1
Corneal Specks, . . . . .	2			1	3
Corneal Specks with Lippitudo . . . . .	1			1	2
Paralysis, . . . . .			1	1	2
Abscess of the Thigh, . . . . .				1	1
Opacity of the Cornea, . . . . .		1		1	2
Ulcers of the Cornea, . . . . .		1		3	3
Conjunctivitis, . . . . .	1			1	2
Iritis, . . . . .		1		1	2
Chronic Ophthalmia, . . . . .	1			1	2
Strumous Ophthalmia, . . . . .	1			1	1
Totals, . . . . .	10	6	2	11	29

\* A pay patient.

*To the Select and Common Councils of the City of Philadelphia.*

In conformity with the ordinances of Councils, "the Board of Managers of Wills' Hospital," present the following account of their proceedings and expenditures.

On the second day of December, 1833, the Board was organized by electing a President and Secretary. Rules and regulations for their government were established, after being regularly submitted to councils. On the first of January of the present year, the House was opened, and William Foulke appointed to superintend the same as Steward, and subsequently his wife, Lucy D. Foulke, as matron. On the third of February, four Physicians and four Surgeons were elected, and on the third of March, the Hospital was regularly opened for the reception of patients, on which occasion an eloquent and impressive address was delivered to a large and respectable audience, by Joseph R. Ingersoll, Esq. which has been published. The following week, the Chapel was opened for divine service, on which interesting occasion the venerable Bishop White officiated.

Since the opening of the Hospital, twenty-nine patients have been admitted, labouring under various diseases of the eye and limbs, producing blindness and lameness, (see statement A) of these, ten have been discharged, *cured*; six discharged at their own request relieved; two incurable, leaving in the Hospital on this day 11 patients.

By the Treasurer's account herewith submitted, (marked B) it appears, the Board have drawn, up to

the 31st of August inclusive, from the City Treasurer, the sum of 3200 dollars, and the Treasurer of the Board has paid the sum of 3090 dollars, and 69 cents, as will appear by the vouchers herewith submitted, No. 1 to 65, leaving a balance in his hands this day, (Sept. 1st,) of 109 dollars and 31 cents.

The Board, in order to give Councils a correct view of the different objects of the expenses incurred, have arranged the accounts under the following heads, (see statement C.)

Household expenses, . . . . .	\$1008 63
Salaries and wages, . . . . .	347 26
Furniture, . . . . .	1572 87
Real Estate, . . . . .	1108 49
Incidental expenses, . . . . .	150 11

Making together, \$4187 36

Of which, there have been paid as will appear by the Treasurer's account, \$3090 69  
Bills passed but not paid, 271 79  
Bills not decided on by the Board, 809 45

4171 93

Received for Board of a pay patient, 9 00 } Included  
Contributions from a visitor, 1 00 } in house-  
Balance due the steward, 5 43 } hold ex's

\$4187 36

There are on hand this day, articles applicable to household expenses, the estimated value of which is \$190 50 (see statement D.) This sum deducted from the amount of household expenses and wages leaves the actual expenses incurred for the support of the Hospital in food, clothing and medicines, \$1165 39, from the opening of the institution to the present time.

The item of \$1108 49 expenses on the real estate, has principally arisen from a few necessary alterations in the interior of the building, but more particularly from filling up the lot and preparing it for cultivation, and from the inclosing the piazza of the south front with blinds, an alteration rendered absolutely necessary for the preservation of the building, as well as for the comfort of the patients, as will appear from the following extract of the report of the special committee on the Real Estate.

"Your committee have directed their attention to the state of the floor of the piazza on the south front of the house which covers a part of the kitchen, the floor having settled in the middle, retains the rain-water that falls on it, which finds its way through the ceiling of the kitchen and is rapidly destroying it. On consulting some of the most experienced mechanics, various plans were suggested, which from the expense attending them, they did not feel authorized to incur without the sanction of the Board. Experience has fully shown, that the piazza in its present state is almost useless as a promenade for the patients, in consequence of the total want of shade. The committee were therefore induced to extend their inquiries as to the best method of excluding the sun and rain, and have added the various plans and estimates for the same, from which after examination, they recommend to the Board to adopt the plan of panelling the piazza from the rails to the floor and filling the spaces above and between the pillars with strong moveable blinds, believing it will more fully answer all the purposes intended, and from the durability of the materials employed will eventually be the cheapest."

Signed by direction, and on behalf of the Board, this the 1st day of September, 1834.

JOSEPH PARRISH, President.

JNO. RODMAN PAUL, Secretary.

Mr. Yarnall, presented a communication from Elliot Cresson, proposing to erect a building for the accommodation of the Western Watch, and lease the same to the city for a term of years. Referred to the committee on lighting and watching.

Mr. Gilder offered the following resolution, which was agreed to.

Resolved, That the Board of City Commissioners be and are hereby authorized and directed, (under the direction of the committee on Broad street rail road) to attend to all such matters as may be necessary for a due and faithful superintendence of the Broad street rail road, and also to fix the rate of tolls on the said road, to the several streets crossing the same, or depots constructed thereon, in proportion to the tolls levied, on the Columbia and Philadelphia rail road, and also to grant permits for private turnouts, and to see that all matters relative to the said road, and which are placed under the care of superintendents of the same, be duly executed agreeably to existing ordinances.

The two following articles appeared originally in the National Gazette in 1833, and escaped us at the time—but we think they are worthy of preservation.—One as recording an act of liberality on the part of the American Philosophical Society:—And the other as containing an investigation of a question, which may be raised at some future period, the solution whereof may be assisted by it.

From the National Gazette.

#### ORPHAN.

The provision in the Will of Mr. Girard for the education of *Orphans*, has given rise to discussions about the meaning of the term. It is often asked, What is an Orphan? We have permission to publish the following correspondence upon this question, which will afford some light to the subject, if it should not satisfy the inquirer.

PHILADELPHIA, April 20, 1833.

Dear Sir:

In our conversation, a few days since, upon the strict meaning of the word "Orphan," in relation to Mr. Girard's will, you know I was very confident that it was a child who had lost *both* parents; while other gentlemen present thought the loss of *either* parent would make an orphan. I spoke from general impressions, but have since given a close examination to the question, without coming to a result absolutely satisfactory, but am inclined to the opinion that neither of the above descriptions is correct, and that an orphan is a child who has been deprived of both parents, or *of the father*. I will refer you to the authorities and reasons that have brought me to this conclusion.

Johnson, and he is allowed by subsequent lexicographers, says, "*Orphan*, a child who has lost father or mother, or both." His examples or proofs are, of course, classical, and we rather want the legal acceptance of the term. It is also observable that his quotations do not designate or support the alternative he has adopted in his definition, and may be applied or restrained, only to the case of the loss of *both* parents. His authors use the term *Orphan*, but there is nothing in the context to show whether it is intended to describe a child who has lost one or both parents. He then gives "*Orphan*" as an adjective, which he says, means "*Bereft of parents*;" and here, although his quotation from *Sidney*, is the case of a child without father or mother living, it by no means negatives the opinion that the term might be as well applied to a case in which only one parent was

lost. We leave the question without a satisfactory solution from the Dictionary.

On turning to the law books for information, we do not find the desired certainty. Leech's case, Hob. 247, arose on the custom of London, giving to the Court of Orphans, the custody of an *orphan* of a freeman or freewoman. The child, in this case, had lost both father and mother, but, non constat, that either would not have made it an orphan, within the custom, however we may be inclined to presume that the court would not assume the custody of a child having a living father, thereby taking it from the father. The statute of 43 Eliz. c. 4. recites that whereas, lands, &c. have been given, limited and appointed,—"some for the relief of aged, impotent and poor people, &c.—some for education and preferment for *Orphans*," &c. *Duke* in his work on charitable uses, an author of high authority, in commenting upon this clause of the statute, says—"Orphans are those that are poor and *parentless*; and such are bastards *after the death of their mother*, and are to be relieved, until by indentment they are able to get their living, which is the age of twenty-one years." Again, "If a *parentless* poor child be married under twelve years of age, it continues an *orphan*, until the age of assent; no servant or apprentice is an orphan, within the statute, because they have masters, which are in lieu of parents to provide for them." We remark that *Duke* makes *poor* a part of his description of an orphan, from which we may conclude that he is giving the construction of the statute, and not the proper or general definition of the word.

In Cunningham's Law Dictionary, I find the definition which I am most inclined to adopt, viz: "*Orphan* is a *fatherless* child." This author cites no authority, and is, I admit, of no great account himself—I will therefore state the grounds of my preference of this definition. By the custom of London, the effects of a man dying intestate, are divided into three parts, one of which belongs to the widow, another to the children, and the third to the administrator. The share of the children is called the *Orphanage* part, although their mother be living. So the Court of *Orphans* in London are the guardians to the children of all freemen, under the age of 21, at the time of the death of their father, although the mother be living, who, in this respect, seems not to be recognized as a parent.

In 4 Burns' Eccl. Law, 378, cases are cited in which it was decreed by Lord Chancellors Harcourt and Cooper successively, that if an *Orphan* dies before 21, intestate, his *Orphanage* part goes to the *other Orphans*; but if, after 21, he dies intestate, it shall go between the *Mother* and surviving brothers and sisters; thus recognizing a child to be an *Orphan* who has a mother living: but I find no case calling a child an *Orphan*, who has a father living. In 7 Vin. 199, in addition to these cases, another is given, decided by Lord Harcourt, in which he decreed that the *Orphanage* part shall survive, even after a division made between the children, but what was devised to them out of their father's part, the mother shall come in for a share of it.

Without affirming the technical absurdity that a mother is of no kin to her own child, we may say, from the cases we have alluded to, and others which may be found, and which in this brief review of the question, I will not particularly refer to, that as to the purposes of the maintenance, provision and preferment of a child, the father is the parent looked to and depended upon; and therefore that in the construction of a statute, or other instrument having a reference to those objects, the loss of the father will be deemed to make the child an *Orphan*, although the mother remain; but not e converso. I do not profess to give an opinion on this question, which should be relied on as conclusive or satisfactory, but my suggestions may afford some aid in making a better investigation into it.

Very truly and respectfully, your obedient servant.

QUINCY, May 8, 1833.

Joseph Hopkinson, Esq., Philadelphia.

My Dear Sir,

When Mr. Biddle first asked me the definition of the word *Orphan*, I thought it very easy to answer, and the first impression of my mind was, like yours—that it was a child without living parents. A moment after I thought that in law, and in the intendment of common conversation, a fatherless child was an Orphan—and a second moment of reflection convinced me that at least for all beneficial purposes, a motherless child must be an Orphan,—and I distinctly said to Mr. Biddle, that as an exposition of the Will of Mr. Girard, every infant within the age prescribed by him, and having lost either Parent, was an Orphan.

The conversation at Mr. Biddle's table, in which you took part, soon after followed, and left the question unsettled. Your very interesting letter of the 20th ultimo does the same, and although it has suggested to me a further train of inquiry, and led me to a multitude of other authorities, has only satisfied me that the indefiniteness of meaning attached to the word is of long standing, and of wider extent than the English language.

Johnson's Dictionary gives the derivation of the word from the Greek. The original word then is Greek, and the English language has adopted it letter for letter, with the omission only of the termination. What say the Greek Lexicons—

Ὀρφανός ὁ ὄν.—Orbus parente, vel parentibus, pupili, orphanus.

2. Orbus quavis re, viduus, carens.—*Hedericus*.

In the original Greek, therefore, it was received with two different acceptations. First, a child having lost both parents, or either. Secondly, a bereaved or needy person.

Ὀρφανός υ.—Orphanus pupillus, orbus parentibus, desertus, privatus. q. ab. Ὀρφανός obscurus, negligitur enim et veluti in tenebris versatur.—*Schrevelius*.

Darkness—Privation of life—that is the root, and in the analogy of that derivation, a motherless, is pre-eminently an Orphan child.

In the Epistle of James, chap. 1, v. 27—the common English translation of the New Testament has it—“Pure religion and undefiled before God, and the Father is this—To visit the *fatherless* and widows in their affliction,” &c. The word translated fatherless, is in the original Greek Ὀρφανός.

“A father of the fatherless, and a judge of the widows is God in his holy habitation.—Psalm 68 5. In the Septuagint Bible, the word is Ὀρφανός.

The word fatherless is not synonymous with orphan, nor is it a correct translation of the Greek word Ὀρφανός. Of the complex idea included in this latter word, bereavement, poverty, distress, constitute an essential element. The word is figurative; borrowed from the analogy of darkness, and associated with that of a public institution, providing for the wants of the sufferer. The word fatherless is a much more simple expression—a bare statement of the fact that the individual to whom it applies has no father, but not even necessarily implying that his father is dead—for it applies to a bastard no less than to an orphan.

In the Celtic, and Saxon, and Teutonic origins of the English Language, there is no word corresponding with that of Orphan. The institutions which gave occasion for the word did not exist among those nations. The Germans, who have not adopted the word from Greece, have one of which their etymologists are unable to trace a derivation. The word is *Waise*, and it is used with the addition of fatherless, or motherless, as the case may be.

The Orphan sons of fathers who had fallen in defence of their country, were educated at the public expense at Athens, and they were supplied with a full suit of

armor at the expiration of their apprenticeship. One of the bitterest passages in the oration of Æschines against Ctesiphon, is that in which, alluding to this custom, he asks how it was possible for the people to confer a crown upon the man who had himself *orphanized* so many of their children. Under those institutions it was the death of the *father* that constituted the Orphan, and so it is understood by the Greek writers generally: yet Euripides applies the word to the death of either father or mother.

Παῖρος θανόντας ἰεὶ δὲ ἀφανεύετο,

says Admetus, speaking of his wife Alcestis. Potter translates it—

“Her father dead, she came an orphan hither.”

But in the Hippolytus, Theseus, hearing of the death of his wife Phaedra, exclaims—

ἀλλ' ἀπώλομαι

Ἐγὼ μὲν οἶκος καὶ τεκεῖ ἀφανεύεται:

translated by Potter,

“But my all is lost,

My house is desolate, my children orphans.”

Hippolytus, 1, 892, 3.

And thus we have the highest classical authority for concluding that, in the original Greek, a child having lost its *mother* only was an Orphan.

In the French language the Greek word has also been adopted, but has undergone some mutation.—From “orphenin,” as it was first used, it has been changed to *orphelin*, which the Dictionary of the French Academy defines, “Enfant en bas âge, qui a perdu son père et sa mère ou l'un des deux;” with this further observation: “Il est à remarquer que dans l'usage ordinaire on ne se sert guère de mot d' *orphelin*, en parlant d'un enfant qui n'a perdu que sa mère.”

From all which I conclude, that the death of either parent constitutes an Orphan for every purpose that can entitle the individual so designated to receive any benefit or advantage.

I have the greatest satisfaction in coming to this conclusion, because it seems to me that the principle of limiting the sense of the word to persons who have lost their *fathers*, carries with it something of discourtesy and even injustice to the female sex. It seems to imply that the death of one parent places the child in a condition requiring compassion, sympathy and support, while the death of the other carries with it no such commendation to benevolence. The distinction countenances a pretension of superiority on the part of our own sex, which would be peculiarly misplaced in the relations between parent and child.

I submit these considerations to your better judgment, and remain, dear sir, ever faithfully, your friend,

J. Q. ADAMS.

PHILADELPHIA, May 14, 1833.

My Dear Sir,—I have received your admirable letter with high gratification. It is a proof how much can be brought out of a rich and strong mind, upon a subject apparently insignificant or barren. It is impossible to question the value of your classical authorities, or your logical conclusions from them, further than that it may be said, that the passage quoted from “Hippolytus” is poetical, and intending to express, with great strength and feeling, rather than philological and critical accuracy, the grief of Theseus on hearing of the death of his wife. Independent of this case, the weight of your authorities rather inclines to the interpretation which requires a child to be *fatherless*, to become an Orphan; especially your references to the French Dictionary.—So, under the Athenian institutions, to which you allude, it was, as you say, “the death of the father that constituted the Orphan.” If the question should occur under Mr. Girard's Will, it is probable that the legal signification of the term will be taken, if it has been fixed by sufficient authority; but, as this may not be the

case, information and light will be sought for from every authentic source, and your researches will be eminently useful to the inquirer.

Very respectfully your obedient servant,

H.

### AMERICAN LIBERALITY.

*American Philosophical Society.*

PHILADELPHIA, 5th January, 1833.

Sir—I received some time ago a circular letter, signed by several members of the Royal Institute of France, and among others, by you, under the title of "Commissioners for concerting together respecting the Monument to be erected in the *Jardin des Plantes*, to the memory of M. Cuvier. The object of that circular was, in inviting foreign men of learning to contribute to the erection of that noble monument, loudly to proclaim, as the committee express themselves, the fraternity which exists among men of letters of all countries. This object sir, is in fact worthy of those who have conceived it, as well as of the great man to the glory of whom the monument is destined, whose loss is regretted, not only by his own country, but by the world at large, to whom he belonged.

The letter having been addressed to me in my capacity of President of the American Philosophical Society, I lost no time in laying it before that Institution, and it is with pleasure sir, that I have the honor of sending to you the enclosed bill of exchange, drawn to your order on Messrs. Hottinguer & Co. Bankers at Paris, for the sum of one thousand francs, which the Society has ordered me to transmit to you in her name, as a small tribute to the memory of the illustrious Cuvier, and of which you are requested to pay over the amount when received, to the commissioners.

The Society, moreover, has given to me in charge to request you to express to the Royal Academy of Sciences, the deep regret which it feels for the loss of your associate.

I have the honor to be, with high consideration, sir, your most obedient humble servant,

PETER S. DU PONCEAU.

Monseur F. ARAGO, Perpetual Secretary of the Royal Academy of Sciences of the Institute of France, Paris.

### INSTITUTE OF FRANCE.

*Royal Academy of Sciences.*

The Perpetual Secretary of the Academy to Mr. Du Ponceau, President of the American Philosophical Society.

PARIS, 26th August, 1833.

The Commissioners for the monument to be erected to the memory of Cuvier, not having met for a long time, I am compelled to send to you the simple receipt of their Treasurer. I am certain, however, that I shall not be disavowed by the Commissioners, when I request you to express to the American Philosophical Society, their most lively gratitude. Your letter bears so honorable a testimony to the liberal spirit with which the *Savans* of America are animated, that I hope I need no apology for having caused it to be published textually in the *Moniteur*.

Be pleased, Mr. President, to accept the assurance of my highest consideration.

F. ARAGO.

### ROYAL INSTITUTE OF FRANCE.

PARIS, 24th August, 1833.

I, the underwritten, special agent to the Royal Institute of France, appointed by the Commissioners for erecting a monument to the memory of Baron Cuvier, to receive the sums of money sent for the erection of that monument, acknowledge to have received of the American Philosophical Society, by the hands of Mr. Hottinguer, the sum of one thousand francs, which that

celebrated Society has transmitted for the monument to be erected to the memory of George Cuvier, in the *Jardin des Plantes*, at Paris, of which this is an acquittance.

CARDOF.

From the National Gazette.

### MR. MILLS AND HIS BALLOON.

It is not a little surprising that in our age we should hear objections to ærostation, founded on its uselessness. Philosophers amused themselves for more than two thousand years with the ælipile, before it resulted in the steam engine; and the attractive power of rubbed amber, was a thousand times called into play, before Volta applied his "pile" to the treatment of disease, or Franklin erected his metallic protector against the artillery of the clouds. Ærostation is yet a new art, scarcely understood, and hardly reduced to the condition of a safe experiment; and yet because it has not been drawn into the service of society, it is condemned as useless, not only for the present, but the future time. He must be indeed a sapient prophet who can foretell what is to result from aeronautics in all the time to come. Whoever says that it can lead to no useful truth, must have already tried all its possible applications, for only such a man can be sure of the validity of such an assertion. But it is trifling with science, and betraying ignorance of the history of discovery, to allege that any pursuit, particularly of recent origination, can lead to no good;—and especially in this age of great events from little causes, there is almost foolhardiness in such assertions.

It is not however in fact true that aeronauts have brought down no novelties from the region of clouds and storm. The tension and the chemical composition of the air of the higher atmosphere, has been examined, although the results thus obtained demand repetition and confirmation. Gay Lussac brought down and tested a bottle of air from a height of 21,000 feet, and as he was not near to any mountain, the air obtained may be supposed a fair specimen of the general atmosphere at that height. The electric state and the hygrometric condition have been scarcely yet observed, while the observation of Gay Lussac is, I believe without repetition. These things are obviously important, while every experimentalist knows that accident reveals always far more than philosophy can conjecture, and that the greatest results are often in the most unexpected direction.

Seeing these things, we cannot but regret that our æronauts pay so little attention to the science, and so much to the mere art of ærostation. In this respect, Mr. Mills offers an honorable exception. Although new to the philosophy of his pursuit, he is exceedingly zealous, and from his great coolness and self-possession, likely to make observations with clearness and accuracy. Among other things he will carry up four bottles, carefully closed by stop-cocks, and fully exhausted of air by a good air-pump. One of these is to be opened a mile from the earth, another at two miles, and so on to the top of his voyage. Each bottle, carefully closed again, will contain a specimen of air more or less dense according to the height; and while it will prove a good check on his barometric observations, it will enable the chemist to ascertain the constitution of the air at various heights.

For the first time, I believe, the gas will be made from zinc on so large a scale, and as it will be better than that from iron, the ascending power will suffice probably to convey the æronaut to a greater height than has yet been reached. It will also, if the wind should blow landwards, enable him to travel far; for he proposes to descend, anchor for the night; ascend in the morning, and close his adventure if possible on the verge of civilization. It is a bold thought, and one for

the successful execution of which, every good wish should attend him.

The balloon is made of 517 yards of white silk, carefully varnished. Over this is thrown a netting of white twine to give it strength, and to afford attachments for the cords of the car, which is sustained solely by it.—The diameter is 28 feet; so that it is larger than an ordinary house: and the contents are over 11,000 cubic feet. At the top a valve is fixed, which closes by a spring. The valve opens like a door inwards, and is governed by a string, which extending through the centre of the balloon, passes out at the bottom and descends to the hand of the passenger in the car beneath. When this valve is open, the light hydrogen gas flows out, and thus the aeronaut is able to lower himself. On the other hand, when he wishes to ascend again, he throws out some ballast, and thus makes the machine lighter.

Most persons suppose that a balloon is closed at the bottom—but that is not the case. A closed balloon would, if full at starting, burst before it reached an elevation of 500 feet. As the gas from its levity cannot fall out at the bottom, that is left open, for the escape of a part, when it is enlarged and forced out by the lessening pressure. This renders ballast indispensable; for when the balloon is made to descend by letting out gas, it falls back through the air with less hydrogen in it than it had when rising, and has much less buoyancy; hence to prevent a too abrupt descent, or to rise again for a choice of a good place to land, some ballast must be thrown out. The ballast consists of sand tied up in bags of about ten pounds each. Such bodies might by falling, do injury, and therefore each bag is in succession loosened, and the sand poured out.

Balloons have sometimes sailed to great distances.—One sent up at Paris at the coronation of Napoleon, fell near Rome. This contained no one. A French aeronaut travelled through the atmosphere from Paris to Bordeaux. That is perhaps the longest ærial voyage on record.

For the information of your juvenile readers, I may state, that hydrogen gas, when pure, is about fifteen times lighter than common air. That made from iron is impure, being only six or seven times lighter, while that from zinc is about twelve times lighter. The gas is made by putting the metal into water, and adding oil of vitriol (sulphuric acid.) Now water is formed of two kinds of air, one very heavy, called oxygen, and one very light, called hydrogen. The heavy one unites with the metal and partakes of its solid nature and remains in the cask; the other, the lighter one, having no power to unite with the metal, the water or the acid, flies off in the form of air, and being conveyed by tubes to the flattened balloon puffs it up and gradually fills it. The balloon becomes lighter than air, and soon swims on it, as a light cork does in water, and tries to get to the surface of the air, as a cork, let go at the bottom of a river, rises towards the top. But air differs from water, in being lighter as we ascend higher, and therefore no balloon can go to the top of the air, which is probably forty miles above the earth: Let the young arithmeticians tell why, as the hydrogen also grows proportionably lighter, the balloon cannot rise to the top. Any one of them may send a solution to your paper.

Even if the balloon could rise to so great a height, the aeronaut would perish, either from excessive cold, or the extreme thinness of the air, which could not afford him breath enough.

#### ÆRIAL VOYAGE.

We have received from Mr. Mills, the subjoined particulars and interesting account of his late ærial voyage, to which we invite attention. It is interesting to hear Mr. M. describe the appearance of the earth from a considerable height—the fields—meadows, woodlands,

&c. appeared like miniature representations of the country. While nearer the earth, the busy hum of men—the rattling of carriages, carried up to his ear with a strength wholly disproportionate to the size of which the objects appeared.

#### MR. MILLS' LETTER,

*To the Editor of the United States Gazette.*

PHILADELPHIA, 16th Sept. 1834.

Sir—At half past four o'clock, on one of the finest afternoons I have ever seen, I set off in my balloon from the yard in Broad street. Having made the gas with unusual material, (zinc) and having previously mixed and cooled the sulphuric acid and water, I could not exactly estimate the time necessary to inflate, and did not, therefore, entirely fill the balloon. This was the less necessary, as, from the settled and calm state of the weather, I could not expect to be carried to any great distance by the wind. At the appointed time exactly, having sufficient ascending power for the occasion, I rose; the barometer standing at 30.2, and the thermometer at 80 degrees. The stillness of the air enabled me to rise almost vertically so that before I left the region of the city, I had reached a height which gave me a view of it, like that in a small map. The regularity of the streets, lined with people, the crowded house tops, and the vast concourse around the inclosure, the noise of carts, and the shouts of the multitude, produced, altogether, an effect which must be observed, to be properly appreciated. My course, at first, was nearly north, slightly inclined to the east. Then a current of air, from the eastward, propelled me gently to the west, so that my course lay a few hundred yards north of the new prison. The view of the Schuylkill, its boats—ships—bridges and water works, always beautiful, looked magnificent from so great an elevation. Altogether it is difficult to imagine any thing finer than Philadelphia, seen from a great height. Its regularity, its extent and its two rivers, give a remarkable diversity to the scene, and cause one to regret that the observer must be carried away from it.

After crossing Schuylkill, the air became, at so great a height, very keen and piercing, and made me regret the want of a good warm great-coat. The thermometer fell to 31 degrees, making a difference of temperature of 49 degrees, in the course of little more than an hour. At the same time my respiration was uncomfortable, and a head-ache completed the inconvenience of my situation.

I had, for the first time, an opportunity of seeing, from a balloon, a bright sunset, and of looking at the sun after his rays no longer reached the dark looking earth beneath me. The eye, at this height, suffers more, from observing the setting sun, than it does below; or perhaps my headache may have caused me to notice a difference, which seemed remarkable.

Warned by the increasing obscurity of the world below, I began to descend; and at 6 o'clock and 20 minutes, reached the earth in a fine green field, near the Spread Eagle, on the Lancaster turnpike, 16 miles from Philadelphia. As I descended very slowly, two young gentlemen, and Dr. Matlack, of Philadelphia, came to my assistance; and laying hold of the car, in which I remained, towed me, about a quarter of a mile to the tavern, where I alighted; balloon and passenger, safe and sound. Before discharging the gas, several ladies got successively into the car, and were let up as far as the anchor rope would permit. The gas was let out, and the balloon folded. In doing this, a cricket was unfortunately included, and having to cut his way out, he made the only break in the balloon which occurred on this expedition.

Mr. Horne, of the Spread Eagle, treated me with great kindness; and Dr. Matlack politely offered me a conveyance to the city, which I reached at one this morning.

Below, you have a table of Barometric and Thermometric observations. I may add, that at a Barometric height of 18.6 I opened an exhausted bottle and enclosed some air. Another was opened and closed at 17.5. The thermometer was then at the freezing point exactly. These bottles have been since tried by a barometer gauge, and verify the report of the barometric altitude.

Disappointed in my hopes of a brisk wind, I shall make another ascension soon, that I may see how far a balloon can be made to travel.

Very respectfully, yours,  
JAMES MILLS.

Time.	Barometer.	Therm.	bottle.	bottle.
4—36				
4—50	26—3	58		
5—00	24—9	45		
5—15	20—3	44		
5—22	19—1	33		
5—27	18—6	34	No. 2	
5—32	18—0	34		
5—40	17—7	33		
5—45	17—5	32	No.	3
5—55	17—4	31		
5—59	20—5	31		

#### MEMOIRS OF THE HISTORICAL SOCIETY OF PENNSYLVANIA.

##### *Memoirs of a Remarkable Law Case,*

In a letter from S. Creigh, Esq., and communicated to the Society, May 1834, by

ALFRED CREIGH, of Carlisle, Pennsylvania.

"*The Historical Society of Pennsylvania*," calls upon its members, to furnish materials by collecting and transmitting for preservation, whatever may be deemed curious, interesting or instructive, in order to advance its grand designs and noble purposes. Believing therefore, that it is our bounden duty to respond to this call, and with a view to incite others, to the performance of a duty, pleasing and patriotic, I transcribe part of a letter which I received from my brother Samuel, dated,

"MIFFLIN, Juniata county, May 2d, 1833.

"Our Circuit Court is still in session. There was but one cause for trial, and that is a very important one. The matter in controversy is a farm of 3 or 400 acres of the best land in Tuscarora, about thirteen miles distant. The facts given in evidence are rather singular, and the farm has been in controversy about 50 years."

"It may not be uninteresting to give you a short history of the matter, according to the evidence."

"It appears by the testimony of an old woman now 71 years of age, that her father Robert Hagg, Samuel Bingham, James Grey, and John Grey, were the four first settlers—and the first white men who came across the Tuscarora mountain, about the year 1749. They cleared the land and built a fort, afterwards called Bingham's fort. Some time in 1756, John Grey, and another person, went to Carlisle on business, and as Grey was detouring to the fort, a bear ran across his path in which he was travelling, frightened his horse, and threw him off. In consequence of this accident, Grey was retained some time on the road—(the time not known) and when he returned to the fort, he found it had just been destroyed, and every person in it killed or taken by the Indians."

"John Grey's wife and child was gone, (the child was 3 years old at this time.)—Innis' wife and children—a man by the name of George Woods, (he was the father-in-law of Ross who ran for Governor, and was,

not long since, a resident of Bedford,) was taken by the same band, outside of Fort Bingham. His companion was shot.—A number were taken at the same time."

"John Grey joined a Volunteer company, and went against the Indians to Kittanning, in hopes of finding his wife and child. The hardships of the expedition were so great that he died shortly after at Bucks county, making his will, in which he gave his wife the one-half of his farm, and his daughter the other half, if they returned from captivity. If his daughter did not return from captivity, or was not alive, he gave one-half to his wife if she returned, and the other half to his sister, who had a claim against him of £13, which she was to release."

"John Grey being dead, Mrs. Grey returned from captivity one year or so after she had been taken.—She escaped in a waggon belonging to a trader, among a parcel of deer skins. Mrs. Grey then married a man named Williams. Some time after this a treaty was made with the Indians, in which they agreed to deliver up all the captives. This treaty was made in 1764.—All persons who had lost children were notified to come to Philadelphia and claim them; Mrs. Grey went and brought one home which she said was her child. This reclaiming of the child was seven or eight years after it had been taken."

"The children of James Grey said that this child was not the right one, (Jane was her name) and they therefore claimed the one-half of the land through their aunt. Mrs. Grey, or Mrs. Williams (as I will hereafter call her,) said that when they had been taken, and were crossing the Seidling Hill, she had examined the child (Jane) and found a mark on her by which she had been able to recognize her."

"To Mr. Innis, who was one of the captives, who remained with the Indians until the treaty, and who in conversation was chiding Mrs. Williams for keeping a girl that was not her own; Mr. Williams replied, you know why I keep this girl, or you know the reason.—Mrs. Innis told her that her daughter was not returned—that this was a German girl—and could not talk English when she came to Montreal."

"George Woods, a captive, said that the real child of Mr. Grey was given to Houston, an Indian who had kept Jane for seven or eight years—and that he (Woods) had succeeded in getting her into a good family in Canada."

"Mrs. Williams has said to one witness who asked her, Is that your daughter? No! It is not: but George Woods knows where my daughter is, and has promised to get her."

"Another witness swears that the girl called her, mother—and that she (Jane) was very much like her. They wore the same frock, and the same shoe fitted both. Some swear that she was like the Greys—and others swear that she was not. Mrs. Innis had lost three children—one the Indians put under the ice because it was sick—the other two she got—one of these a gentleman of Philadelphia had, and refused to give it up until Innis proved the child his, by a private mark."

"Braddock's defeat was in 1755."

"Bingham's fort was taken in 1756."

"The treaty was made in 1764—eight years after the destruction of the fort, and the captivity of its defenders."

"For Plaintiff—S. Alexander, Esq. of Carlisle, who claims through the girl of Mrs. Williams."

"For Defendant—Potter and Blanchard, Esqs. of Bellefonte, and Wilson, Esq. of Lewistown, who claims through John Grey's family by the aunt, and who deny that she is the daughter of John Grey."

"Verdict for Defendants."

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 13. PHILADELPHIA, SEPTEMBER 27, 1834. NO. 351.

## LOTTERY SYSTEM.

Having published in No. 7 of the Register, an Address to the citizens of Pennsylvania and the United States, by "The Pennsylvania Society for the Suppression of Lotteries," we have extracted from a larger work, by the same pen, certain parts thereof for this number, which are valuable in a historical point of view. Mr. Tison has spent much labour upon this subject, and his facts may be received with entire confidence.

A Brief Survey of the great extent and evil tendencies of the Lottery System, as existing in the United States,

By Jon R. Tison.

Published by order of a meeting of citizens of Philadelphia, favorable to the entire abolition of Lotteries.—1833.

Gambling, by means of the lottery, is not of very modern origin. I thought it has been tolerated, and even fostered by Christian communities, it dates its birth so far back as a remote period in the history of the Romans. The uses to which it was applied among them, are faithfully delineated by Menestrier, a Jesuit father, who published the result of his researches about the close of the seventeenth century.

The Christian world is indebted to the republic of Genoa for suggesting the idea of resorting to the lottery as a measure of finance. From Italy it migrated into France, about the year 1580, where its history presents one dark page of poverty, wretchedness and crime. Its introduction into Great Britain was early, being nurtured and sustained by the paternal arm of government as a happy expedient for raising money upon the principle of voluntary taxation. The first lottery mentioned in English history was established in 1567; and Maitland of Stowe informs us, that in 1569, two years after, there were but three lottery offices in the kingdom.—A few years sufficed to bring an enormous accession to the number, and divers statutes were enacted, to assuage, by restrictions and penalties, the malignity of their influence. But no emollient was equal to the emergency of its purpose; a new genius awoke into being, competent to evade, by dexterity and stratagem, the provisions of each new law. At length its enormity had become too obvious and crying to be longer withstood without a serious inquiry into the means which had been employed for its palliation. That inquiry was made, and on the recommendation of a committee of the House of Commons, new guards were applied.—Still checks were found to be but temporary alleviations, which, like most remedies of that nature, produced the effect of giving false security to the patient, rather than efficacy in counteracting the disease. Nothing less than the total abolition of the system, was capable of expelling a poison so deeply seated and pervading.

It may well be supposed, that if it prevailed in England when this country was colonized, the policy

would be observable in acts relating to its early settlement. Accordingly, the second lottery granted by Parliament was authorized in the reign of the first James, for carrying on the colonization of Virginia.—The eastern colonies too, if not directly assisted, experienced the unhappy effects of the same spirit of legislation. So early as 1699, the "ministers met at Boston," felt themselves called upon to denounce the lottery as a cheat, and its agents as pillagers of the people. But notwithstanding this early denunciation of the system, and its recent extinction in England, the lottery has taken deep root and shot its noxious branches into many portions of the American Union. Legislative sanction may here be seen given to this vice under the various pretences of excavating canals, building bridges, erecting school houses, and endowing colleges, as well as for the construction of edifices devoted to worshipping the Deity! Unhappy indeed, that the lover of freedom should consent to aim a deliberate blow at his proud institutions; and that the Christian votary should inflict a deep wound upon religion and morality with the ostensible view of aiding their promotion!

But whatever has been instrumental in the diffusion of lottery grants in the United States, the objects to which they have been applied are not more multifarious than their number and amount have been overwhelming. There now exist, in the different states, no less than twelve or fourteen lotteries which claim for their origin the authority of legal sanction. What the amounts hazarded in a single week may be, it is difficult to calculate with any thing like precision. That it is even prodigious in amount, may be presumed from the fact, that in the single state of New York, schemes have been issued, since the adoption of her new constitution, to the enormous sum of *thirty-seven millions of dollars*. In Pennsylvania, schemes issued under the authority of seven other states, are vended to an incredible amount, in direct and notorious violation of law.—It could not have been anticipated by the provincial assembly of 1762, when it prohibited lotteries with a striking preamble and a high penalty, that a few years would witness their multiplication to such an extent.—This colonial legislation, whilst it displays the domestic feelings of the colonists, at an early period, likewise demonstrates the foreign origin of the lottery system.—But this is more distinctly shown by the proviso of the act which saves from the general prohibition, "all state lotteries enacted and licensed by act of Parliament in Great Britain." There is no doubt that the parent country taught her imitative offspring to domesticate the lottery, by pointing out the uses which it might subserve. This fact informs us what is by no means unimportant, that the lottery is a weed which is not indigenous to this soil; that it did not spring up in this country, the result of necessity or the dictate of pecuniary expediency. By advertent to the act referred to, it will be found that our ancestors pronounced it to be a mischievous and unlawful game—to be 'detrimental to youth and ruinous to the poor—the source of fraud and dishonesty—alike hurtful to industry, commerce, and trade—as it was baneful to the interests of good citizenship, morality, and virtue. Let us take a rapid survey of its tendency as a public measure, and of its operation upon those who come within the sphere of its influence,

both as the source of pecuniary emolument or ruin to its votaries, and as a meritorious instrument of adventure, or the means of idleness, dissipation, licentiousness and crime.

The English Chancellor of the Exchequer proposed the lottery for a long series of years, as a justifiable public measure, on the principle of its being only a voluntary taxation assumed by those who adventure.—Can it, upon any just view of the subject, be regarded as a tax? Does the ostensible sum to be levied constitute the whole of the assessment? And is it equal in its operation, by imposing a burden on the citizen relatively commensurate with his pecuniary ability?

A fundamental principle of all taxation, as recognized in the usages of civilized societies, is, that it should spring from some subject either of property or enjoyment. It is entirely consistent with the acknowledged principles of government that the citizen should pay for the enjoyment of a luxury as well as for the possession of his lands and houses; but that cannot with any propriety be called taxation which looks to no such substantive basis of assessment. Nothing exists upon which it can be founded. Does the adventurer in the lottery, when he loses thousands in a single drawing, reconcile himself to his misfortune upon the ingenious supposition, that he has only been paying his taxes? Does he embark in his purchases upon the ground of liquidating a debt due to the state, or because he indulges the delusive hope of obtaining a golden return? If he does not *consent* to his loss upon any but the principle of individual hazard, it is idle to speak of *voluntary* taxation. Things should be known by their appropriate titles. It is the grossest solecism, and for the purposes of artifice, to call the lottery a tax, while it is a contrivance for raising revenue out of the credulity, the weaknesses, and the vicious propensities of the lower classes of the people.

But the asserted right to raise money by lottery for other reasons, bears no resemblance to the taxing privilege. In the sum *specified to be raised* by any given lottery, the whole amount *actually to be drained from the pockets of the people* never appears. It is a striking feature of the system, that all is wrapt in concealment and obscurity. The proposition for example to raise by lottery ten or fifteen thousand dollars, which is to be expended in public charity or internal improvements, from the smallness of the sum, is not supposed to be worthy of serious remonstrance or opposition. As the grant confers only the power to offer a few tickets for sale, the purchase of which is free from constraint, and resting wholly upon the volition of the buyers, no objection, it is thought, should be urged against it. And, when the destination of the sum is considered, it appears to be so meritorious upon the score of benevolence or public spirit, that the measure, from meeting at first with acquiescence, is hailed with popularity. But is it taken into the account, that to raise so trivial an amount, sometimes requires the issuing of schemes approaching to a million of dollars?—Let us refer to examples. Two lotteries in Maine, authorized in 1831, according to a calculation which has been made, issued schemes to the amount of *sixty thousand dollars*, to enable them to leave a surplus in the treasury, beyond the expenses, of *fourteen dollars and twenty-one cents!* The legislature of Massachusetts granted to the town of Plymouth, in the year 1812, the privilege of raising by lottery the sum of \$16,000, for the purpose of completing certain repairs in the Plymouth Beach. After the lapse of nine years, during which period classes had been drawn amounting in the aggregate to *eight hundred and eighty-six thousand, four hundred and thirty-nine dollars, and seventy-five cents*, it was ascertained that only *nine thousand eight hundred and seventy-six dollars, and seventeen cents*, was contributed to the object in view! Another remarkable instance is presented to the same effect, in the Union Canal Lottery, authorized by the legislature of Pennsylvania.

This grant, which may be dated in 1811, was to raise \$340,000 for the purposes of the Union Canal. By a contract entered into with certain enterprising gentlemen of New York, schemes were permitted to be issued to an indefinite extent, upon the annual payment into the hands of the company, of the sum of thirty thousand dollars. In pursuance of this contract, and under the assumed authority of the grant, schemes were issued during the last year to the amount of *five millions, three hundred and thirteen thousand and fifty-six dollars*. Including the sum of \$6,479,136, as the estimate for the present year, schemes will have been issued by the last of December, exceeding altogether the astonishing aggregate of *thirty-three millions of dollars!* If the career of this lottery, so unreasonable and portentous, had not been arrested at the last session of the legislature, it would be difficult to conjecture how many millions more would be assessed upon the people under the pretence that the amount of the grant had not been attained. It thus appears, that to collect a few dollars by means of a lottery, the assessment must be *thousands*; and if the object be to accumulate a few thousands, no less than *millions* are to be extracted from the pockets of the people! What in all probability would become of the fortunes of a nation whose infatuated government were to employ, as its only dependence, a system of taxation so insidious in its effects, and so absorbing in its requisitions?

But the *inequality of its operation* renders the lottery equally oppressive and intolerable. Who are the chief contributors to this frightful and unheard of taxation? Are they the wealthy, the intelligent, and the wary—those who can afford to adventure, and are able to penetrate the subtleties of speculation—or the needy, the ignorant, the weak, and the desperate? Seek information at the lottery office and the periodical drawings. Behold there the chimney-sweep, the servant, the apprentice, the clerk, the man of slender means ambitious of becoming suddenly wealthy! Behold the large group of unprotected humanity whose fate the trammels of its fascination have so unresistingly secured! These comprise the largest portion of the *taxed*—of those who are seduced by the splendid lures of the lottery craft. The want and distress which it occasions among these is a sufficient reason for branding it as one of the most iniquitous and mischievous systems of taxation, so called, ever invented by human ingenuity. Its effects upon the indigent may be illustrated by a fact in the history of the lottery in Turin. For several days previous to the drawings, the usual supply of provisions was not carried to market, because, about that period the poor were in the habit of famishing themselves, with a view to embarking more largely in lottery adventures.

As therefore the position of the Chancellor cannot be sustained, upon the acknowledged principles of taxation, let us view the lottery as a public measure in other respects. Is it hurtful or otherwise to the moral sensibilities and general welfare?—There are few governments which do not wish to promote honourable sentiments and habitual industry among the people.—This at least is the theory of most governments, which are framed on the principles of civil freedom and social equality. When we foster industry and reward genius, when we establish institutions of learning, or give birth to those of benevolence, we intend to *repress* idleness and vice, and to bring into exercise the better dispositions of the mind and heart. Is it compatible with these intentions to choke the seeds of virtue and industry by offering encouragement to idleness, and giving nutriment to vice? France, when she receives the enormous sum of twelve millions of francs per annum, from her gambling tables and her lotteries, seems to act upon the principle that so large a sum in her public coffers, counterbalances the private injury which they are the means of inflicting. Thus it may have been with Great Britain, after inquiry and research, had proved its ruinous

influences. Those States of our republican Union which adhere to the system of raising money by lottery, must likewise believe, if they reflect at all upon the principle upon which it is founded, that public aggrandizement is preferable to public and private virtue.—By why is the public money expended for the suppression of vice? For what purposes are houses of refuge and penitentiaries for solitary confinement? Why are schools established for moral and literary instruction at the public expense? The lottery system is in direct conflict with the policy of these. The one seeks to benefit the morals of society at the public charge, and the other to raise money by the destruction of morality. Is it consistent with enlightened policy to found institutions, whose professed object is to elevate the tone of popular virtue, while a system is permitted to remain, whose acknowledged operation is to impair or destroy their precious results? Is it the perfection of wisdom in legislation to collect money by means of an agent which fosters vice, while immense sums are even generously expended in its suppression?

But this view proceeds upon an assumption that the lottery is profitable as a branch of revenue, which is by no means susceptible of demonstration. It leads its votary from the safe paths of provident thrift and sober industry to the labyrinths of visionary hope, and substitutes the idle dreams of speculation for the certain promises of reward for useful labour. When the energy of the character is laid waste by ignoble or inglorious pursuits, dissipation and extravagance soon render the victim incapable of supporting himself. From a respectable citizen he soon degenerates into a degraded pauper. It has been calculated in England where the lottery is merely a financial operation for the benefit of the treasury, that the pauperism directly engendered by it, more than absorbs the revenue it yields. In this country where it has never been employed as the monetary handmaid of government, the vast expenditure arising from its concomitant pauperism, has no fund to which it can look for indemnity. We thus tolerate a system which induces domestic distresses, vices and crimes of every diversity, to raise money which is swallowed up by the public charges which it is the means of entailing! If then the lottery be indefensible as a public measure upon any ground upon which it may be placed, we are reduced to the necessity of inquiring, whether it is permitted to exist without reflection and regardless of consequences, or because public opinion has not been enlightened on the subject of its enormity? We believe the latter; and for the purpose of giving some exposition of its direful and lamentable effects, we propose to exhibit by well authenticated examples, some of the evils which owe to its existence.

A comparison between lotteries and *manual* chance will convince any one that the lottery is the most seductive and injurious of all systems of gaming. We are not desirous of concealing any of the horrors of the *Palais Royal* of Paris, nor of drawing a veil over the atrocities which are there committed, the fortunes that are wrecked, or the suicides which it leads to, but we might contend upon facts not to be controverted, and upon reasoning plainly deduced, that the establishment of a *Palais Royal* in Philadelphia, or in any of our principal cities, is less earnestly to be deprecated, because less diffusive in its influence than the continuance of our present lotteries. For the purposes of a fair contrast, we may refer to Scott's Visit to Paris in 1814, as a book which gives a competent insight into that scene of debauchery. We select this single instance, because from the protection which play receives from the government of France, as a means of revenue, and from a peculiar proclivity in the passions of the people, gambling is there made to present a spectacle of abandonment and vice deplorable without example.

Can we oppose to a picture such as *manual* chance there displays, any thing so dreadful and terrific in the operation of the lottery? It would be no difficult task

to portray, by a stroke, in colours sufficiently dark and hideous, the true aspect of the latter, and ask whether the horrors of the *Palais Royal* would not dwindle in the comparison? Would it be difficult to show that if the lottery in Paris alone should bring nearly seven millions of francs annually into the national treasury, and produce, according to Dupin, *one hundred suicides in the same period*, that even in France, it must present a black and abhorrent visage? But declining an extended comparison, because it can prove neither useful nor agreeable, we prefer to exhibit the effects of the lottery by cases and examples, and to substitute a series of dry but well authenticated facts for general description.

Before we refer to the lottery as it exists in this country, let us review its history and effects in England, whence we have derived it. It will be recollected, that there the public coffers were supposed to be enriched by it as an instrument of revenue, and that it was guarded by laws of great severity. The committee appointed by the House of Commons in the year 1808, examined individuals upon the evils of the lottery in general, as well as in relation to its imperfections as a legal system. Crimes of every dye were found to be committed, suicides were frequent, and the extent of legal insurances which it introduced, were greater than could have entered into the imaginations of its enemies. The effect of recent enactments, which were intended to be remedial of certain abuses, formed a fruitful topic of inquiry by the committee. It was ascertained that these abuses still continued, notwithstanding the most cautious and watchful legislation; and that no laws were competent to their suppression.

Such are some of the facts elicited by the examinations of the committee of the House of Commons, whose report led to enactments, assuasive, they were considered, of the complicated and accumulated evils of the lottery. Other examinations show what it is here unnecessary to quote—the ingenious and multiplied expedients of the lottery venders for evading the laws, as well as the perfidy of the government officers in winking at transgressions, and partaking of the fruits of illicit adventures. The whole report discloses a scene of iniquity so multiform, and of misery so hopeless, as to sicken and appal the mind. The restrictions intended by new statutes soon ceased to exhibit any mitigation in their effects, till at last the whole system was absconded as the most noxious and venomous excrescence that could deform the legislation or poison the moral atmosphere of England. This temporary suspension of the system was preceded by events which, perhaps, will ever be remembered in the annals of self-destruction. A scheme was formed in London, displaying several magnificent prizes of £50,000, and £100,000, which tempted to ventures of very large amount, and the night of the drawing was signalized by fifty cases of suicide! With these tragedies terminated, for a brief period, the career of the lottery in the English Isle. From facts of this character, what opinion are we authorized to form of the magnitude of this evil? An evil which paralyzes industry, destroys domestic concord, saps the foundation of correct principles, and leads to the commission of the darkest crimes in the criminal calendar? What ought we to think of that legislation which can give it protection? As well might a legislature cherish by the public bounty, a monster whose pestilential and baneful breath scattered deformity, disease, and death widely over the country.

But the immense revenue of a million pounds sterling, which at that time the treasury annually derived from the lottery, was too great a temptation to be long resisted. It was soon again introduced into the Budget, as an item, which, notwithstanding its direct consequences in the extinction of revenue, “the state of the finances” could not forego. Large sums were year after year levied upon the people by this detestable expe-

dient to fill the coffers of the treasury. It is related upon good authority that the annual subsidy has seldom been less than a million since the period of the revolution.—If it required the issuing of schemes in the Union Canal to the amount of *thirty-three millions* for the purpose of collecting \$340,000, we may presume that the annual sales in England must be startling. The evils of the system again invoked the attention of the British public in 1819, and a very interesting debate took place in Parliament. The propriety of its continuance was ably discussed by such men as Lyttleton, Buxton, Wilberforce, Canning and Castlereagh. The whole subject was passed in review—its erroneous policy—its irredeemable mischiefs—its sure tendencies and ascertained results—but all gave way to the *invincible necessity* of it as a means of revenue. The committee of 1808 had developed one pregnant and overwhelming fact which furnished to all arguments derivable from that source, a convincing and unanswerable reply. It was calculated that if the lottery were abolished, the increased consumption of excisable articles would more than counterveil its loss to the treasury. In vindication of the system, the Chancellor, it is alleged, assumed a position which is irreconcilable with all sound principles of government and all orthodox notions of ethics. He is said to have asserted that as there was always floating in society a given quantity of vicious inclinations, he had a right to turn them to the best account,—that as the spirit of gambling was rife, he was justified, as a financier, in making it ancillary to the public burthens. It is not easy to decide whether such a sentiment is more incongruous with policy considered merely as a matter of profit, or repugnant to just and moral principles.—Shall we pamper vices because they exist! Is it enlightened prudence or true virtue to hold out lures to the simple, the ignorant, and the credulous, which, if successful, must debase their characters and render them dishonest citizens or dependent paupers? But without formally controverting a dogma which teaches such erroneous doctrines, we may leave it to the silent reflection of the philanthropist, satisfied that he will discard it as unsound, false and illiberal. In 1823 the lottery was again sought to be propagated, but the tide of popular feeling had so violently set against it as to require the salvo of a declaration that it was proposed for the last time. Whether it has not again been recently revived is not certainly known, but surely the British nation has been abundantly admonished of its intrinsic banefulness to abandon it entirely. Upon the invention of Savings Banks, for the benefit of the poor, it was found to present the greatest impediments to their success, but during the period of its temporary discontinuance, these institutions recovered from their languishing condition, and gradually advanced in their deposits to the sum of fifteen millions sterling.

If an investigation were made of its influence in this country, no cause of triumph would present as an exemption from any of the ills which it inflicted on England. Cases are numerous, exhibiting its effects in the production of insolvency and pecuniary distress, in exciting to the commission of extensive and multifarious frauds, and in leading to suicide and other atrocious felonies. The only difficulty consists, not in the want but in the selection of examples, since, from the respectability of relations and friends, much delicacy is necessary in the mention of circumstances. Though from this cause the names of the persons whose cases are subsequently detailed, may, with some exceptions, be suppressed, as well as the authorities upon which they are given, yet we pledge ourselves for the truth of most related, and can offer documentary or oral evidence of their accuracy.

If a committee were appointed by each of the state legislatures to ascertain from living witnesses the effects of lotteries, within their respective boundaries, a mass of private distress and public injury would be brought to light, the magnitude of which it is difficult to con-

ceive. We should witness the severance of the closest and dearest connections of life; the violation of the sacred vows of wedlock; and the disruption of the tender ties of consanguinity and nature. Woe, the most keen and heart-rending, would meet our gaze in all the multifarious forms of hopeless bankruptcy, cheerless and unmitigated penury, incurable intemperance and infamous vice. But it may be well for the mind of sensibility—the reputation of the country—the cause of humanity—that most of these dread consequences may still be concealed. The colours of the picture would be too sombre—the scene, in its collected deformity, too hideous, for exposure to the open day. In attempting therefore a miniature sketch of the results which this engine of human misery and debasement has effected, we shall do all that is within our power in ranging and grouping together a few examples under appropriate heads.

#### INSOLVENCY.

Though no other injury were to follow from this pernicious system, its *invariable* consequence perhaps to adventurers is their pecuniary ruin. As this partly results from the very nature of a scheme, it may be proper here to analyse the probability of loss or gain arising from the relative amount of blanks and prizes. Most of the present schemes proceeding upon the principle of *Ternary Combination*, consist of any given number at the discretion of the managers. The number is so disposed by means of combination and transposition as to produce that amount of tickets of which the number selected is capable. Perhaps the most usual number of the schemes now issued is 66, which will make 45,760 tickets, each containing three double numbers. As schemes of this number are commonly drawn in ten ballots, the fate of the anxious ticket-holders can be ascertained in a few minutes.

Let us suppose that in a lottery containing 45,760 tickets, there are twenty prizes of \$1000, one prize of \$5000, and one of \$20,000, besides others of inferior amount. We decline any consideration of these merely because as the principal is the same, they are not requisite for the illustration; and because the great majority of adventurers contemplate with keener avidity the glittering prize of *thousands*. Now what is the chance of a purchaser for either the prize of the *one*, the *five*, or the *twenty* thousand dollars? If he be the holder of a single ticket, his chance of getting the prize of \$1000, is by calculation shown to be as one to 2080. If he were to purchase that number of chances, and actually succeed in drawing the prize, he would expend at the ordinary retail price of a ticket, the sum of \$10,400.—From this deduct his prize, which, by the allowance of fifteen per cent, will dwindle to \$850, and the result of the speculation will be the positive loss of nine thousand five hundred and fifty dollars. If he be desirous of drawing the prize of \$5000, his reason to expect it might be said to be as one to 22,880. How remote the prospect of success! But the great object of his hopes is to obtain the capital prize of \$20,000. His chance of obtaining this is in the proportion of one to the aggregate number of tickets in the scheme, that is of one to 45,760. Now if for the purpose of indemnity he purchased all the tickets in the lottery, we know that his loss would be immense. What fatuity to venture in a game where the hazards are so manifestly desperate! But, it may be asked, is there no such thing as *luck* in the world? May not the holder of three tickets draw all of the prizes enumerated? Assuredly, it is possible, but what would be the result? One such instance of *good fortune* must inevitably be followed by the loss, perhaps ruin, of the hundreds who have ventured in the lottery.

The following transcript from the records of the Insolvency court for the city and county of Philadelphia, is prepared from the petitions themselves, which are deliberately sworn or affirmed to by the petitioners. It

may be observed, however, that it cannot be supposed to include all who have been driven to insolvency from this cause; in the the district of Philadelphia, since the year 1830. Many whose losses in lotteries have been the principal occasion of their misfortunes, have suppressed the disclosure of them in their petitions, and the fact has only been elicited by examinations at the Bar. A large number, too, either from the indulgence of creditors or successful dexterity in eluding the clutches of the law, have never been driven into the insolvent Court. The number here exhibited, however, is sufficiently great, especially when we reflect upon the domestic suffering which poverty always inflicts upon the families of the unfortunate.

*List of insolvent debtors who have speculated in Lottery Tickets in 1830-1-2-3.*

*Petitions for March term 1830.*

J. A.	No. 7	Actual loss \$700
J. C. B.	15	Amount not known.
W. P.	126	" " "
E. L.	127	About 450
L. L.	128	About 450

*Petitions for June term 1830.*

G. A.	No. 11	About 1600
J. D.	75	About 100
J. B. D.	77	Nearly 1400
J. K.	168	550
J. R., Jr.	252	1420 75
P. S. W.	319	About 4000
C. P. Y.	329	1263

*Petitions for Sept. term 1830.*

A. S.	No. 218	350
T. W.	263	About 400

*Petitions for Dec. term 1830.*

D. B.	No. 7	More than 2500
C. L. C.	44	Nearly 400
G. M'L.	130	Heavy and repeated losses.

*Petitions for March term 1831.*

J. B.	No. 27	About 100
J. S. F.	73	About 2000
G. W.	200	A fine for selling foreign lottery tickets, 2000
A. G.	88	Amount not known.

*Petitions for June term 1831.*

T. T. C.	No. 52	About 75
A. F. K. & Co.	114	At least 5000
A. N.	152	200
A. G. R.	171	About 500
N. S.	199	Returns the following debts as due to him, viz:

G. W.	for lottery tickets,	\$4500 00
" —	" "	2700 00
H. W.	" "	240 00
J. F.	" "	250 00
G. A.	" "	140 00
J. L. H.	" "	250 00
L. T.	" "	21 00
J. H.	" "	7 00
G. K. L.	" "	13 40
J. F.	" "	48 79
J. N.	" "	21 00
J. T.	" "	11 00
S. B.	" "	10 00
W. B. H.	" "	" & ch lnt 1100 00
E. B.	" "	100 00
G. R. L.	" "	22 00
A. C.	" "	100 00

The whole amount due him, is \$9534 19  
The following lottery brokers are creditors:

\* This debt has since been satisfied.

Yates & M'Intyre, of Philadel-	
phia,	\$7000 00
Robertson & Little,	900 00
Yates & M'Intyre of N. York,	800 00

Due his creditors,	\$8700 00	8700 00
		<u>\$18234 19</u>

Several of the debtors have been insolvent, who are returned in this list.

*Petition for Sept. term, 1831.*

A. J. C.	No. 52	About 150
J. E.	87	Amount not known.
W. F.	100	At least 600
W. H.	131,	says that he lost two or three hundred dollars.

*Petitions for Dec. term 1831.*

E. F. W.	No. 180	by tickets on hand unsold, About \$2000
		And the petitioner as one of the firm of E. F. W. & T. P. are indebted as follows:

Yates and M'Intyre, note and book account,		\$1500
Robertson & Little, do do		150 )
A. M. Nutt, do do		40
		<u>\$3040</u>

*Petitions for March term 1832.*

B. W. B.	No. 9	owes
		Yates & M'Intyre, \$25000 00
		Paine & Burgess, 5000 00
		<u>In all, 30,000 00</u>

J. H.	80	Amount not known.
R. M. S.	185	\$5000
J. G. W.	203	Has lost considerable sums in tickets drawn blanks.

*Petitions for June term 1832.*

E. B.	No. 5	\$98 00
J. H. B.	25	4 62½
J. P. C.	47	Amount not known.
A. G. D.	57	" " " "

*Petitions for Sept. term 1832.*

J. H.	No. 117	" " "
H. T. R.	326	The chief, and in fact, only cause of his present embarrassment, is owing to his having dealt to a very considerable amount in lottery tickets, and thereby sustaining great losses.

*Petitions for Dec. term 1832.*

J. H.	No. 97	\$90 50
J. H.	102	36 00
W. C.	37	Has lost by having lottery tickets on hand, about \$3000 00
		He owes Yates & M'Intyre, 503 43
		Robertson & Little, 1088 53
		J. J. Robinson, 2 00
		J. H. 20 00

In all, \$4613 96

*Petition for March term 1833.*

J. C.	No. 40	About \$400
		Petition for June term 1833.
E. L. C.	No. 65	Upwards of \$3300
		He owes Yates & M'Intyre, \$1460
		Robertson & Little, 100

\$1560 1560

F. F.	No. 109	\$71 53
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## Petitions for March term 1833.

J. M. S. B.	No. 10	Returns Yates and M'Intyre as creditors, amount unknown.
P. S. C.	45	Lost considerably in lottery tickets, and returns the following lottery brokers as creditors:
		Robertson & Little, about, \$100
		Yates & M'Intyre " 100
		A. M. Nutt " 30
		\$230 230

## Petition for June term, 1833.

M. M. No. 194.

The petitioner states that he has lost a great deal of money by adventuring in lotteries, having, from the circumstance of drawing several years ago about \$1400, been induced to adventure again until he had sunk more money than he could spare, he was therefore led on to embark further in the practice, under the hope of repairing his losses by some lucky train of fortune, a hope that proved delusive, and is one of the principal causes of his insolvency, &c.

## Petition for March term, 1833.

A. P.	No. 200	About \$50
A. G. R.	247	" 506
U. W.	307	He drew in one of the lotteries about \$6,250, which enabled him to discharge his old debts, and set him afloat again in business. Encouraged by his luck he entered largely into lottery speculations, whereby he lost great sums of money, of which he has no account.

## Petition for Sept. term, 1833.

H. W.	No. 390	About \$130
P. W.	387	Amount not known.

These cases are tedious, but they cannot be uninteresting to any one who regards the welfare or morals of the community, as matters of moment. Would licensed gambling tables be introductive of so much distress, such variety and blackness of crime? In the first place the lottery is *more extensively* prejudicial than other kinds of gambling, by holding out enticements which affect more or less every class in society. It is accommodated to the poor as well as to the rich, to the concealed speculator no less than the avowed libertine.—The subdivision of chances are so minute as even to include, among the adventurers, the apprentice to a trade, the indentured girl, and the chimney sweep. But it does not stop here; with its own undistinguishing spirit it sacrifices older victims, and ascends into higher walks. It penetrates into situations which would prove impervious to the contaminating influences of ordinary gambling. While in common games, the personal superintendence which is necessary, must expose the infamy of participation, the odium of holding tickets may be prevented by committing to another the charge, of the purchase. It is thus, that persons pretending to respectability, have been known to speculate in lotteries without incurring the disgrace which, in most communities, is incident to the practice of gambling.

The risks are greater in the lottery than in other gaming. The chance of the latter may be as one to one, or greater, at the discretion of the player, but the hazards of the former are frequently in the proportion of *one to thousands*. In the one, loss of fortune may ensue in a single night; but in the other, the excitements of hope and the agony of disappointment may alternate in such rapid succession, that the unhappy adventurer may have a protracted struggle with the fickleness of chance before he may know the result of the contest. In the mean time he is rendered a useless, not to say pernicious member of society,—his principles are con-

taminated by familiar association with infamy and guilt, and his habits debauched by indulging in the excesses to which he has been driven. The life of a regular gamester may admit of useful occupation in the intervals of play. But the adventurer in the lottery, broods by day and night over his tickets—his imagination is gloated with the grand idea of possessing the capital prize—and his mind is held in that state of constant excitement, which admits of nothing to divert it from the one great and absorbing object of its contemplation—Ordinary gambling may ruin the victim of its infatuation at once, and drive him to suicide, or he may borrow from his successful companion, beyond the possibility of repayment, in the hope of retrieving his broken fortunes. The speculator in the lottery, on the other hand, is not vanquished at a blow, but in the caprices or accidents of the wheel, though often the loser, he is sometimes the gainer—new stimulus is thus imparted to his cupidity—he is urged on to new adventures—great good fortune only whets his appetite for greater—and continued ill luck only nourishes the hope of its speedy termination. He soon finds that he is incapable of a higher effort than discussing the merits of a scheme, or lounging upon the counter of a lottery office, so that that which was resorted to as promising a great blessing, has become the bane of his happiness and the solemn business of his life. When his means are exhausted, and his friends lose their confidence, he cannot gratify his passion for the game, or his prurency for its successes, by appealing, like the regular gamester, to the fortunate winner for a new supply. Driven, as well by the desperate necessity of ministering to his excitement, as by depraved principles and reckless despair, he is ready for the perpetration of any enormity. Which then has the preponderance of evil as an engine of state? If the risks be greater by which the consequent prospect of loss must be commensurately increased—if it be more likely to lead to incurable idleness—if its inevitable and certain tendency is to intemperance, to perjury, to fraud, and to crime—and if its pernicious influence be more widely diffused, we can be at no loss to which to attribute the loathsome superiority. But placing the lottery upon the same level with other gambling—placing it upon the footing of a great moral, and in our country especially, a great political evil, may we ask whether its continuance by law should be permitted, under a form of government which depends for its existence and conservation upon the high minded purity of its members? Whether that which is so directly at war with the whole policy of this country, whose every interest consists in making wealth the fruit of intelligent industry and presenting every incentive to useful and honorable exertion, should be cherished and nurtured by the genial sunshine of protective legislation?

But not only is the lottery injurious in the abstract, as contributing to great pecuniary distress and moral wrong, but the system as conducted in Pennsylvania, and no doubt from the existence of similar causes elsewhere, superinduces additional evil. Every means seems to be employed, every incitement resorted to by the guardians of the lottery, to render it as extensively prejudicial and as radically hurtful as possible. Let us take a brief view of its administration in Pennsylvania, since the remarks which apply to it here, may, with very few exceptions, be made in relation to other parts of the Union in which the lottery prevails.

There is in Pennsylvania but one lottery which has even the semblance of law, and that will terminate by express enactment with the present year. This lottery, which was granted to the Union Canal in 1811, has existed under different names and with various modifications since the year 1795. Though an act of assembly passed three years before, prohibited the sale of *foreign* lottery tickets under a severe pecuniary penalty, and the act of 1811 incorporating the Union Canal, greatly increased the forfeiture, yet the law, ever since

its enactment, has been constantly infringed with scarcely an attempt at concealment.

The continual augmentation of lottery offices in Philadelphia, illustrates the progressive character of the evil. In 1809 three offices only are recollected to have existed throughout the whole city; in 1827 the number was computed at sixty; in 1831 they were ascertained to amount to one hundred and seventy-seven; and now, in the year 1833, the number may be estimated at above two hundred. In these offices were vended, during the last year, tickets in four hundred and twenty schemes, whose prizes amount to 53,136,930 dollars, as may be seen by the subjoined tabular statement.

States authorizing Lotteries	Amount of prizes.	No. of Schemes.
New York,	\$13,188,818	73
Virginia,	10,010,153	65
Connecticut,	7,638,201	81
Rhode Island,	7,184,486	62
Delaware & North Carolina. (joint grants,)	3,174,324	34
Maryland,	2,028,162	17
Delaware,	614,408	29
* Aggregate for 11 months. Add one-eleventh, (to complete the year,)	\$43,838,552	361
	3,985,322	33
Aggregate for one year, If to this be added the amo't of the <i>Union Canal Lotte-</i> <i>ries</i> drawn within the same period,	\$47,823,874	394
	5,313,056	26
Grand Total,	\$53,136,930	420

Of these four hundred and twenty schemes, whose tickets have been constantly for sale in Philadelphia during and since the year 1832, all are *expressly prohibited by law*, except the twenty-six issued by the Union Canal. Thus the people of Pennsylvania have been made to contribute to the internal improvements of New York, Virginia, Connecticut, Rhode Island, and North Carolina, Maryland, and Delaware, as well as to pay a large sum to a Company of their own state, whose grant has expired. Nor are the other states in which there are large cities, exempt from similar burthens—each is taxed for the local convenience of the others, in proportion to the facilities presented for imposition. But Pennsylvania, by being the great mart for nearly all the lotteries in the United States, has reason for more emphatic complaint. In defiance of all her legislative prohibitions of foreign lotteries, her citizens are annually subsidized to an immense amount; perhaps for a church in Rhode Island, or a rail road through the Dismal Swamp, or for other improvements in which she has as remote a prospect of interest or advantage.

The amount of purchases in the United States, we cannot pretend to assert, but the pecuniary loss per week to the people of Philadelphia may be estimated at thirty thousand dollars. This sum is nearly lost to the people, for the only pretended benefit accruing to the cause of physical improvement is the inconsiderable sum of thirty thousand dollars per annum, supposed to be applied to the purposes of internal navigation. It follows that all the pecuniary distress—the illdness and crime superinduced—are inflicted upon the citizens of Pennsylvania, without the hope of benefit or the expectation of return.

The drawings in Philadelphia are frequent, and it is believed about every fortnight throughout the year.—

\* Taken from an accurate list of schemes up to December 1, 1832.

Witness the assemblages at the arcade on these occasions. Hundreds of wretched persons are collected, whose intense anxiety is read in their flushed and distorted countenances. Listen to the loud imprecations and blasphemy mingled with the scarcely audible whisper of profane, delirious, and intoxicating joy, upon the announcement of a prize! Follow the motley throng upon dispersion, and witness the agonizing disappointment and despair which ninety-nine out of a hundred exhibit! Yet to the relief of these, hope soon comes in the chances of to-morrow. They again attend, and with a beating pulse and palpitating heart, hear—another disappointment in another *black!* Are not such spectacles and scenes a disgrace to, and reflection upon humanity?

In the two hundred lottery offices in Philadelphia, it is estimated that there may be five or six hundred persons employed to attend to the business of the respective offices. These persons subsist and grow rich by preying upon their deluded fellow-citizens. Boys of the tenderest age are initiated into all the mysteries of the craft, which are those of habitual falsehood and schemes of rapine. The arts that are practised to induce a purchase, and the cheats devised for robbing the wretched victim of his prize when he happens to draw one, are too notorious to need elucidation by example. Nevertheless a remarkable instance of the latter shall be recorded. A person residing in or near Germantown held a ticket which drew the capital prize.—Before the fact was known to the holder, three men rode out from the city, and so frightened the man by representing to him that his ticket was forged, that he was induced to relinquish it. The men returned to the city, obtained the prize, and divided it amongst them. The fraud was subsequently detected, and the culprits convicted and punished. It would be endless to notice all the species of petty frauds which are daily committed; such as disposing of five and seven quarters of tickets, selling and insuring tickets which have long since been drawn, and the forgery of tickets and prizes. We shall here give an instance of the last. A young man by the name of Ebenezer Wright, was brought before the Mayor some time ago, charged with presenting at a lottery office, to be *cashed*, a ticket whose number was entitled to the prize. The report of the case is contained in a newspaper, and concludes thus:—“Wright has been dealing largely in lottery tickets for a number of years past, by which he has sunk a considerable sum of money, notwithstanding on one occasion he drew a prize of 1500 dollars. He remarked to the officer who arrested him, that lotteries had cheated him out of a clever fortune, and he thought retaliation no more than justice.”

Tickets are so subdivided into minute parts, that 123 cents is sufficient to purchase a chance. Thus a lure is held out to youth of both sexes and of all conditions, and every motive is presented for stealing the trivial sum which gives an opportunity for the capital prize. The vendors, as if to secure customers at any hazard, have standing current accounts with girls in kitchens, apprentices to trades, and young clerks in stores, who, from month to month, are debited with tickets, and credited with prizes.

These unprotected beings are importuned in the streets by some emissary of a lottery office, and if persuasion be insufficient to induce a purchase, the tickets are sometimes thrust upon them. Hand-bills of the most insidious and seductive character find their way into stores, taverns and kitchens. Placards, pictures and signs, powerfully appealing to the imaginations of the simple, are exposed to public view. Every art which experience has suggested and ingenuity can devise, is applied to for the purpose of deceiving the credulous and alluring the unwary. A prize is always premised upon the purchase of a package. The excited expectant after spending his last farthing with the

dazzling magnificence of thousands before his eyes, draws indeed a prize which—

Keeps the promise to the ear,  
But breaks it to the hope,

in the loss of more than half his venture. The result to the unhappy victim at last is, the privation of all he possessed, and insolvency to a frightful amount, if indeed it be not attended with other consequences still more fearful and calamitous.

From such a melancholy exhibition of the abuses of lotteries, and the number of individuals sustained and enriched by them, the inference is unavoidable that the number of adventurers must be proportionably great. There is no means of ascertaining with any desirable precision, what number of people buy lottery tickets. But it is certain, and may be relied on as an incontrovertible fact, that *hundreds of persons in Philadelphia depend upon their success in the lottery for their subsistence, and pursue no other means of livelihood!* Can it be believed, that in a city like Philadelphia, there can exist so much crime, dissipation, and idleness? In a city where honest and useful exertion is so well repaid, where benevolence is so actively employed to promote virtue by the establishment of libraries and schools—to prevent vice by the institution of a Refuge for young delinquents—and to arrest its career by presenting opportunities of reform in separate imprisonment? It is nevertheless, true, that *hundreds* pursue no other occupation than inspect schemes, purchase tickets, and attend to the drawings, with the other venial devices for cozenage and fraud which are its necessary concomitants! If it be the duty of government to encourage idleness, that duty may be accomplished through the instrumentality of the *lottery*. If the objects of laws be to introduce domestic unhappiness and every diversity of criminal propensity, it is apparent that the *lottery* will well achieve those objects.

Upon what principle can enlightened legislation, having other objects and duties, permit an instrument of this sort to continue? Is it for the value of the money raised, or is it because the losses incident to lottery speculations may be considered in the light of voluntary taxation? Its deluded victim does not regard it as a tax, but as the road to sudden wealth, dispensing with the necessity of labour. If viewed as taxation, it is unjust because it is unequal, and comes chiefly from the pockets of the poorest of the people. May not money be raised by a mode which is equal in its operation, which takes from the rich man in proportion to his property, and which not confined to the necessitous, will not dry up the means of future support, and cut off the possibility of future contribution? If physical improvement be its object, let us not forget what more than counteravails the benefit—the moral deterioration of the citizen. If revenue be its object, let us not forget that larger expenditures will be requisite for the maintenance of paupers and criminals, and for the construction of new alms-houses and new penitentiaries. In fine, there is no mode of raising money which is so unequal and oppressive—no species of adventure in which the chances are so many against the adventurer—none in which the infatuation attending it so powerful and engrossing—none which inflicts so much distress—and none which produces more general and atrocious criminality. The Committee of the House of Commons, near to the close of their report, thus express their opinion of the lottery as a measure of finance. It is especially true as applied to this country.—“Your Committee are conscious that they are far from having exhausted all the grounds which might be urged, that the lottery ought not to be resorted to as a financial resource. The reasoning upon them appears to your committee to apply with peculiar force, to the situation, the habits, and all the circumstances of a great manufacturing and commercial nation, in which it must be dangerous, in the highest degree, to diffuse a spirit of

speculation, whereby the mind is misled from those habits of continued industry which insure the acquisition of comfort and independence, to delusive dreams of sudden and enormous wealth, which most generally end in abject poverty and complete misery.”

The great question remains, what will have the effect of extirpating so prodigious an evil? Experience has proved, both in England and America, that no regulations can palliate its mischiefs, and no prohibitions, though armed with penalties, are adequate to give to it a prescribed restriction. If the act of 1805, passed by the Assembly of Pennsylvania, for preventing insurances by forfeitures be coolly contemplated—if the acts of 1792 and 1811, likewise annexing pecuniary penalties to the sale of foreign tickets, be inadequate to their purpose, what confidence is to be reposed in fines and forfeitures? Can its destruction be otherwise effected than by imposing imprisonment as for a criminal offence? Should not that which destroys the peace of families, and is the origin of every criminal excess, be itself visited by criminal punishment? Nothing less than the severest inflictions of the law and the activity of the public can secure its provisions from infraction.

But legislation, however well matured, is after all but the expressed opinion of the hour; for if it be competent for one legislature to annul a system in vogue, the next is equally able to restore it. Public sentiment may be stifled on a sudden exigency, or public feeling be blunted by the prevalence of kindred vices. How then shall we ensure to future generations an exemption from this moral scourge? New York has set an example worthy of her commanding influence and eminent rank in the confederacy, in forever extinguishing the power to grant a lottery by means of her revised constitution. But as constitutional restriction in every state must be unavoidably delayed, it will devolve upon good citizens to protect, by their vigilance and zeal, the rights of morality from insult, and existing laws from violation. We commend the subject to the anxious and deliberate attention of the philanthropist and patriot, as incalculably momentous to the present well being of society, and to the future prospects of the country.

#### TOWN MEETING.—RIOTS.

At an *adjourned* meeting of the citizens of the City of Philadelphia and the adjoining districts, held at the District Court Room, September 15, 1834. JOSEPH R. INGERSOLL, Esq. the Chairman, being absent, John Goodman, Esq. of the Northern Liberties, was called to the Chair. The minutes of the first meeting having been read, John Binns, Esq. from the Committee appointed to make inquiries as to the origin, character and extent of the riots in the month of August, made the following

#### REPORT.

The Committee appointed at a Town Meeting of the Citizens of the City and County of Philadelphia, held in the District Court Room, September, 3, 1834, “to inquire into the origin and progress of the late riots in Philadelphia, and the means taken to suppress them; and to ascertain the extent of personal injury inflicted, and the damage done to property, real and personal;” with instructions, to make report to an adjourned meeting of the Citizens of the City and County of Philadelphia, to be held at this place, this evening—respectfully Report:—

That they entered on the discharge of the several duties of their appointment, with deep convictions of their delicacy and importance—with a determination to ascertain as far as possible, all the facts connected with the case, and to report, with scrupulous fidelity, such as they should deem deserving of report. They also came to a determination to avoid—so far as a faithful discharge of duty would permit—the vexing and dis-

tracting questions and opinions which influence the minds of a large portion of our citizens in relation to recent events. The Committee are sensible of the importance attached to the opinions and questions to which they allude, and of their probable momentous and extensive influence on the peace and welfare, not only of this district, but of the whole United States.—The Committee, however, did not think this the time, or this the occasion, in which discussions of speculative opinions could be profitably indulged; conscious, that, notwithstanding their determination to forbear any examination of speculative opinions, that the facts intimately connected with the subjects which they are called upon to inquire into, are of such a nature as will wound the sensibilities of many of our citizens. The Committee, have, according to their best judgments, discarded whatever prepossessions they could discover in their own minds, and they ask of their fellow citizens, in their consideration of this report, to make liberal allowance for the errors of the best disposed, and to give credit for good intentions, even to the weak and misjudging.

It is notorious—indeed, a fact not to be concealed or disputed, that the “object of the most active among the rioters, was a destruction of the property, and injury to the persons, of the colored people, with intent, as it would seem, to induce, or compel them to remove from this district. A similar feeling and intent, had previously manifested itself in the city of New York, and has subsequently been in active operation in the interior of this state, as well as in the state of New York. These events are called to mind, for the purpose of remarking, that general principles and convictions, rather than local feelings or interests, must have been in operation thus extensively to influence public opinion, and disturb the peace of so many districts in our heretofore tranquil country. Whatever those principles and convictions may have been, their consequences are deeply deplored, and by this community, sincerely regretted.

All Governments claim and enforce obedience, from all persons being under their jurisdiction, therefore, all persons have a right to expect, and to demand, protection from the Government under which they live. If the laws cannot be enforced, if the public peace can with impunity be broken, there is an end, or to a certain extent, a suspension of civil Government. One of the most indispensable duties of Government, is to protect the persons and properties of those who are within their boundaries. In an especial manner we have been taught to believe, and do believe, that where the People are sovereign, and the Laws are made by Representatives of their own choice, the Government and the People are equally and eminently bound, to ensure, that every man shall dwell safely under his vine and under his fig tree, from Dan even to Beersheba, and that there shall be none to make him afraid. The character of our country, and her institutions must suffer, if peace be not preserved within our borders. Every honest man will raise his voice against riots, and every man who is not conscientiously scrupulous, should be prompt to raise his arm, not only to aid the civil authority, to protect the person and property of his fellow man, but also, to bring to justice, those who put them in jeopardy; thus sustaining the peace of the community, the supremacy of the Laws, and the Government of his choice.

Among the causes which originated the late riots, are two, which have had such extensive influence, that the committee feel they would be subject to censure, if they did not notice them. An opinion prevails, especially among white laborers, that certain portions of our community, prefer to employ colored people, whenever they can be had, to the employing of white people; and that, in consequence of this preference, many whites, who are able and willing to work, are left without employment, while colored people are provided with work, and enabled comfortably to maintain their

families; and thus many white laborers, anxious for employment, are kept idle and indigent. Whoever mixed in the crowds and groups, at the late riots, must so often have heard those complaints, as to convince them, that the feelings from which they spring, stimulated many of the most active among the rioters. It is neither the duty, nor the intention of this committee, to lay down rules for the public, or the government of individuals, but they deem it within the obligations imposed upon them, to make the statements they have made, and to leave the matter for correction, to the consideration and action of individuals.

The other cause, to which the committee would refer, is, the conduct of certain portions of the colored people, when any of their members are arrested as fugitives from justice. It has too often happened, that when such cases have been under the consideration of the judicial authorities of the country, the colored people have not relied on the wisdom and justice of the judiciary; on the exercise of the best talents at the Bar, or on the active and untiring exertions of benevolent citizens, who promptly interest themselves in their behalf; but they have crowded the Court Houses, and the avenues to them, to the exclusion of almost all other persons; they have forcibly attempted the rescue of prisoners, and compelled the officers of justice to lodge them for safety, in other prisons, than those to which they had been judicially committed. Scenes like these, have given birth to unfriendly feelings, for those who have thus openly assailed the officers of justice. The committee hope and expect, that such disgraceful scenes will not, again, be exhibited in our city, causing disrespect for the laws; instilling a spirit of insubordination; familiarizing the public to breaches of the peace; and a resistance to the judicial authority, and stimulating the violent and the turbulent, to make war upon the officers of the Courts, and exhibit, in our most public places, an armed and a riotous people.

These, and other causes, have long operated in the minds, and occupied the thoughts of no inconsiderable portion of our fellow citizens. Nearly twenty years ago, there was, in this district, an out-breaking of popular discontent, which issued in the destruction of a place of worship, of the colored people, in the Northern Liberties. As a small frame building, used by the same description of people, as a meeting house, was torn down, and the windows of another broken, during the late riots in the Southern Liberties, the Committee deem it proper to remark, that the directions thus taken by the rioters, was, in no instance, given by any prejudice against any religious sect, or from any indisposition to seeing the people of color assemble together, for the purpose of public worship. It is believed to have been caused by the disorderly and noisy manner in which some of the colored congregations indulge, to the annoyance and disturbance of the neighborhood, in which such meeting houses are located.

The earliest facts immediately connected with the origin of the late riots, of which the committee have been able to obtain authentic information, are the occurrences on the evening of Tuesday, the 12th of August. On a lot in the rear of South street, and above Seventh, there had been for some time before, an exhibition of what were called, Flying Horses. On these horses, a limited number of persons, for a certain sum of money, were allowed to ride a limited time. On these horses, the whites and the blacks rode indiscriminately, and sea's were eagerly sought after, angry words and quarrels would arise, as to the rights of preference to a seat. On the night stated there was an unusual crowd of young men, and it was at the time remarked, that they were principally strangers, persons not residing in the vicinity. What was the immediate cause of the riot, or whether, as is, by many believed, it had been preconcerted, the committee have been unable, with certainty, to ascertain; but a disturbance arose in a very short space of time, the whole of the Flying

Horses, were torn to pieces. The magistrates and peace officers of that vicinity, did their duty courageously, and except the damage done on the premises, where the riot commenced, and where some wounds were inflicted, the public peace was not again disturbed that night.

The next evening, the 13th of August, a considerable mob unexpectedly presented itself in the vicinity of the premises, which had been destroyed the night before. There having been no expectation of such a visit, no preparation had been made, and the resistance to the mob, on that evening, was principally by the local authorities and inhabitants, until, at a late hour, and after much mischief had been done, they were reinforced by the Constables, Watchmen, and Police from the City. In Seventh, Shippen, Bedford, and Small streets, and in the Lanes in that neighborhood, the mob did much injury to property, breaking into houses, destroying the furniture, and greatly abusing and beating the inmates, all colored people, many of whom, after having labored hard through the day, had retired to rest, without a thought that their dwellings would be invaded, and their lives endangered by the inhumanity of persons to whom they were strangers. We record such facts with deep regret, but trust that their record will act as a warning, and deter other persons from being seduced into a participation in such an outrage.

On Thursday, the 14th of August, the President Judge of the Court of Common Pleas, and the Attorney General wrote to the Sheriff, and, on their representations, he promptly took the necessary steps to preserve the public peace. As the execution of Murray had been fixed for the next day, the 15th, and no reprieve had then arrived, the time and attention of the Sheriff, was so much occupied in making arrangements for that melancholy event, that he entrusted to his Counsel, P. A. Browne, Esq., the calling out of a sufficient force to ensure the public peace. In a communication from this gentleman to the committee, he expresses an entire conviction, that the civil authority, is, in this district, without the aid of any of our Volunteer Corps—which, however, was promptly tendered—abundantly sufficient to quell any riot, which unfortunately may take place. The attendance of nearly every individual summoned on the Posse Comitatus, and the facility with which, by volunteers, the places of the few who were absent, were supplied, affords gratifying evidence of the general determination of our citizens, that the laws should be respected, and the public peace preserved. If any additional evidence was required, it is to be found in the obedience, discipline, and good order, which was, at all times observed, whenever the citizens were called out, wherever they were directed to go and whatever they were ordered to do, by those under whom they were organized. It is due to these citizens, and to the volunteers, horse and foot, who were out during the riots, to remark, that, notwithstanding their determination at all times, to do their duty, they were in no instance, guilty of a wanton exercise of power, but, were as forbearing, as they were resolute. This evening, (Thursday,) although the number of the people assembled, was greater than before, in the neighborhood, where persons and property had been assailed, yet was there little, or no, mischief done, so well had the constituted authorities made their arrangements, and so overwhelming was the force they had called out.

This night, however, was marked by the complete destruction of a small frame building, used as a place of worship by the colored people, near Wharton Market, a distance of a mile and a half from where the riot had commenced. This was an event so unexpected, that conjecture was busy to account for it. The committee have ascertained the cause why this building, thus situated, and thus used, was prostrated.—The evening before Wednesday, there had been some excitement in that vicinity, but of no great extent, and

without any marked character or object. Between 9 and 10 o'clock, of Wednesday night, as three lads, strangers to each other, were passing the south end of this frame meeting, they were fired upon from a house, and the general belief was that it was an officer of the meeting, a colored man, who fired. The young man, about 17 years of age, most injured, the committee have examined. He was shot in the hand and in the leg. It was this unprovoked firing, and the general belief, that it was done by an officer of the meeting, which excited popular indignation, and directed it against the frame building.

On the night of Friday the 15th, serious and not unfounded apprehensions were entertained that blood would be shed. In Seventh street, below Lombard, some colored men had taken possession of a house called Benezet Hall, into which, it was said, they had conveyed arms and ammunition. The crowd in front of the Hall was great, and made violent threats. The Mayor of the city, with an effective force of constables and watchmen, came on the ground. The windows of the hall and the doors were fastened on the inside, the tumult without increased every hour, and some stones were thrown at the hall. The Mayor, justly apprehensive of the consequences, and feeling the deep responsibility resting on him, addressed with energy and effect, those who were in the hall, as well as those around him. Soon after the effect produced by this address, High Constable Garrigues stationed four watchmen in front of the hall, and then went round, and made his way in, at the back of the building.—He made known who he was: some of the colored men were turbulent and disposed to resist, but the mass of them, (there were about 60,) were willing to submit, and were only anxious for their safety. He took them all quietly out the back way, announced to the crowd that the hall was cleared, and quiet was restored. The weapons found in the hall were swords, sword canes and clubs—there were no fire-arms.

This evening, Friday, in consequence of many assemblages of young men, and some threats thrown out against the colored people in the Northern Liberties, strong apprehensions of a riot were entertained in that district. The Sheriff organized the citizens—the Police Magistrate, and the other local authorities were on the alert; a few individuals were arrested, and happily the peace was preserved. An occurrence which took place on Saturday night, and which was wonderfully distorted and magnified, again endangered the peace of this district. Two black men were fighting in their own yard; a watchman interfered to keep the peace, and was, by one of the black men, cut with a scythe on the head, arm, and shoulders, in a very dangerous manner. A correct account of this affair was industriously and actively circulated, the public mind was informed and tranquilized, and peace preserved.

In the district of Spring Garden, an apprehension at one time prevailed, that an attack was contemplated on Type alley, inhabited principally by coloured people. Dispositions were made by the Police Magistrate of that district to avert the threatened calamity, but happily the peace of that neighborhood remained unbroken.—Since the night of the 15th, no attempt has been made to disturb the tranquility of any part of Philadelphia.

The committee have taken pains to ascertain the damage done, and the personal injuries inflicted. All the houses injured were occupied by colored people.—The houses in the same neighborhood, inhabited by white people, were preserved from injury by the white inhabitants showing themselves, with lights, at the doors and windows. More than thirty houses were, more or less, injured—a frame meeting house torn down, and the windows and sashes of another meeting house much broken. As the rioters broke into the houses, their inhabitants fled, many of them nearly naked, to save their lives. The furniture of the houses was utterly destroyed. The whole amount of damages is probably less

than \$4000. The damage sustained does not average to the sufferers a hundred dollars; but small as is that sum, it had been hardly earned, and it would require much time and labor to replace the things which were destroyed. They were the little all, of those to whom they belonged, and as the cold weather approaches, they will more and more feel the want of their stoves and their beds, and other necessities.—Many of these people were forced from their abodes, and for days were afraid to return; others were beaten severely, and one, we regret to say, died of his wounds.

In riots, all are principals; every one among the rioters, in the eye of the law, is guilty of the crimes, however crimson dyed, which are committed by any of his fellow rioters. Thus, if one commits a murder, all are legally murderers, and if death be the punishment of the murderer, all, on conviction, would be subject to be sentenced to death. The committee present this serious view of the case for the information of the uninformed, and that the young, who may have heedlessly thrown themselves among the guilty, may do so no more.

The case of Stephen James is entitled to some consideration. He was an honest, industrious colored man; a kind husband and a good father. He had retired to rest on the night of the 14th of August, but was aroused by the clamor of the mob. The cries which met his ears soon informed him that he was in danger, and he fled for safety; he was however overtaken, and wounded in many places, even unto death. He never spoke after he was found wounded, in the yard. The Committee do not believe that among all the persons, who made up the mob assembled on this occasion, there was one wicked enough to contemplate taking the life of an inoffensive and unoffending aged man—yet, in truth, they did this accursed thing. These facts are stated, to induce men to reflect upon the desperate deeds, which mobs, without desperate intentions, may commit. It may be proper here to state, that more than one of the peace officers were so seriously wounded that their lives were despaired of.

Some of the coloured population are yet under apprehensions, that, at no distant day, another attack will be made on their persons and property. The committee have diligently sought to acquire information as to the ground on which these apprehensions rest, and they have been unable to ascertain any facts which authorize them. As, however, the peace of every community, however large and peaceably disposed, may be endangered and broken, by the machinations of a few designing or turbulent persons, it is deemed a portion of the duty of this committee, to make such suggestions, as, in their opinions, may tend to avert so dreaded an event, as an irruption upon the quiet of any portion of our population. Nothing will tend to win the good opinion, and secure the good offices of the community, more than a respectful and orderly deportment. It would do much good if those of the coloured population, whose age and character entitle them to have influence, would take the trouble to exercise it, and impress upon their younger brethren, the necessity as well as the propriety, of behaving themselves inoffensively, and with civility at all times, and upon all occasions; taking care, even as they pass along the streets, or assemble together, not to be obtrusive, thus giving birth to angry feelings, and fostering prejudices and evil dispositions.

On the other hand, if, unfortunately, any attempts shall at any future time be made to renew the late disgraceful acts, it is expected that the citizens who may reside in the vicinity will do their duty, turn out promptly, and, with a strong hand, put down the offenders. Parents, guardians, and masters would do well to caution the young people under their control, to avoid crowds, and not to mix themselves up with rioters; more thoughtful persons, from prudential considerations, will keep at a distance from the violators of

the law, lest they, being found in bad company, shall have to bear their portion of the shame and punishment which follow rioters and disorderly conduct.

The Committee submit the following resolutions.

Resolved, That it is the duty of all citizens, but more especially of the constituted authorities of the country, promptly and vigorously, to put forth all their strength to suppress all riots, and to punish the rioters.

Resolved, That the sincere thanks of this meeting be given to all the magistrates, peace officers, and citizens who did their duty during the late riots.

Resolved, That it is due to justice and to the character of this community, that the losses sustained by the unhappy sufferers, among whom are included those who were wounded in defence of the public peace, should be compensated.

Resolved, That a committee of fifteen be appointed to investigate the claims of the sufferers, to collect subscriptions from our fellow citizens, and distribute them in the most speedy and equitable manner, among those who have suffered, in proportion to their losses.

JOHN BINNS,  
J. GOODMAN,  
PETER HAY,  
JAMES MOTT,  
A. HOOTEN,  
MORTON M. MICHAEL,  
Committee.

On motion, the report was unanimously adopted, and the duty of naming the committee authorized by the fourth resolutions was referred to Messrs. Binns, Hay, Goodman, Hooten, M. Michael, Mott, and Renshaw.

It was Resolved, That the proceedings be published in all the daily papers of the city.

JOHN GOODMAN, Chairman.

PETER HAY,  
JOSEPH R. CHANDLER, } Secretaries.

The following gentlemen compose the Committee of fifteen, appointed under the resolutions.

CITY—James Mott, George Tryon, Thomas P. Cope, Abraham Miller, William E. Lehman, Samuel Archer, William Bethel, Elliot Cresson, Israel Roberts.

NORTHERN LIBERTIES—Charles J. Sutter.

SPRING GARDEN—Lawrence Shuster.

KENSINGTON—Samuel Guier.

SOUTHWARK AND MOTMENSING—James Ronaldson, Thomas Sparks, Peter Williamson.

By order of the Committee of Seven.

MORTON M. MICHAEL, Secretary.

## GOLD—OFFICIAL.

STATEMENT of the amount of Gold remaining in the Mint uncoined on the 13th September—with the amount deposited for coinage within the week ending 20th September—together with the amount of Gold coinage executed, and of coins delivered within the same period.

Remaining uncoined at the Mint, September, 13th,	\$803,000
Deposited for Coinage during the week ending 20th September, viz:	
Uncoined bullion,	\$5,500
Coins of the United States of former standard,	1,500
Foreign coins,	244,000
	<hr/>
	251,000
	<hr/>
	1,054,000
Amount coined during the week ending 20th September,	203,000
Amount remaining uncoined,	\$849,000

**ARRIVAL EXTRAORDINARY.**—The White Hall row boat, manned by four oarsmen, came down the river on Tuesday morning from New York in fine style. They left White Hall at 5 o'clock on Monday morning, and arrived at Bordentown at eight in the evening, having suffered considerable detention in the canal, by the opening and closing of the locks &c. The crew remained at Bordentown during the night, and reached Philadelphia in admirable condition at eight o'clock yesterday morning—a distance of one hundred and fifteen miles in the space of *eighteen hours*. The boat is 28 feet long, and one of the finest specimens of that description of water craft that we ever beheld.—*National Gazette*.

### OBITUARY OF JAMES HOPKINS, ESQ.

We have to announce the death of JAMES HOPKINS, Esq., the oldest and one of the most eminent members of the Lancaster Bar. Mr. Hopkins had attained an age when, in the common course of events, it was but natural to suppose that the fell destroyer would not much longer withhold the demand which, sooner or later, he ever so surely makes. But the *manner* and *time* of his death were, nevertheless, peculiar and striking. A trial, of great interest and importance, had been progressing for nearly two weeks, in which Mr. Hopkins was the leading counsel for the plaintiffs. On Thursday afternoon, just as Mr. Buchanan, who was one of the counsel for the defendant, had risen to address the jury, he was interrupted by Mr. Hopkins, who expressed a desire to read to the Court and Jury certain authorities upon which, among others, he said he intended to rely. Mr. Buchanan gave way; but Mr. Hopkins, after a few incoherent remarks, was unable to find the authorities, and resumed his seat.

There can be no doubt that the fatal inroads of disease were then commencing; for, a short time after he was discovered to be apparently asleep in his chair.—There was nothing extraordinary in this; and the first alarm which communicated itself, was on the part of one of his colleagues, who, after having made several attempts to arouse him from his supposed slumber, expressed his apprehension of something serious to the Court, when, upon examination, it was discovered that his fears were but too well founded.

He was immediately carried home in a chair; medical aid called in, and bleeding promptly resorted to—but in vain—the ravages of disease baffled the energies of science and skill, and he lingered on, in a nearly unbroken lethargy until about nine o'clock of the succeeding Sunday morning.

A meeting of the members of the Bar was held on Monday last, when Mr. Jenkins (who had been one of his students) after a beautiful and feeling address, reported certain resolutions expressive of the sentiments of the bar upon the melancholy occasion, which were unanimously acquiesced in, and directed to be published.

Mr. Hopkins had been engaged in the practice of the Law for nearly fifty years. He was always justly distinguished for his legal abilities and attainments, and the untiring zeal and industry with which he discharged his professional duties. Though it cannot be said that he died, literally, in the very field of renown, where he had won so many laurels, it was there that he received the fatal blow which hurried him to the grave. But other and higher objects than those of temporal ambition had long occupied his thoughts. His faith was firmly anchored upon the rock of ages; and his hopes looked beyond the stormy sea of life to the haven of a happy eternity. He died unwarmed, but not unprepared.

His death is indeed a melancholy bereavement to his afflicted children, whose tears were yet scarcely dried for the loss of a beloved and affectionate brother, whose arm had promised to be a resting staff to the old age of his father, and whose light was but too early quenched. But let their sorrows be mitigated by the reflection that the years of three score and ten had been more than numbered; that it was not the green stem but the ripened grain which was gathered to the harvest; and that above all, though the blow was struck, it carried with it no sting to one whose belief and hopes were as his, and though the grave was opened, it has won no victory.

B.

At a meeting of the Bench and Bar of Lancaster, at the Court House, on the 15th September, 1834, his honor, JUDGE HAYES, was called to the chair, and John Montgomery, appointed Secretary.

William Jenkins, Esq. after adverting to the melancholy cause of the meeting, submitted the following preamble and resolutions which were unanimously adopted: viz:

The members of the Lancaster Bar have heard with feelings of profound sorrow, the intelligence of the decease of their venerable friend and associate JAMES HOPKINS, Esquire.

At an early period of his professional career, Mr. Hopkins won, and has ever since maintained one of the highest stations at the bar of Pennsylvania. For almost half a century he has been distinguished for eminent ability, as well as untiring industry. Those who confided their professional business to his care, might always feel confident that all would be done for them, which legal knowledge and watchful perseverance could accomplish. He may be said to have died at his post, for while actively engaged in the trial of an important cause, he was seized with the mortal disease, which in less than three days hurried him to the tomb.

For many years past Mr. Hopkins has been looked up to as the father of the Lancaster Bar; and well did he sustain that character. His bland and courteous manners and the kindness which he invariably extended to his associates, will by them long be held in grateful remembrance.

Resolved therefore, That the bar of Lancaster mourn with the deepest feeling, the death of James Hopkins, Esquire; he was their friend, their father—the head of the profession; its example and its ornament.

Resolved, That in their bereavement his afflicted family have our sincerest sympathy; we condole with them; we mingle our tears with theirs; and feel their loss as our own. But we must bow to the hand that has smitten us; nor refuse the consolation, that is to be drawn from the remembrance of his exalted public worth and his unrivalled domestic virtues. He lives in our affections; and in our hearts will he ever be cherished.

Resolved, That a committee of three be appointed to convey to the family this expression of our feelings on this melancholy occasion.

Resolved, That as a token of our respect we will wear the usual badge of mourning for 30 days; and attend his funeral this afternoon in a body.

Resolved, That these proceedings be published in all the newspapers of this city.

In pursuance of the third resolution the chairman appointed Messrs Jenkins, Ellmaker and Buchanan, each of whom had studied the law under the direction of Mr. Hopkins, to convey to his family the sympathy and condolence of the bar.

A. L. HAYES, Chairman.

Attest—

JOHN R. MONTGOMERY, Secretary.

From the Harrisburg Intelligencer.

INTERNAL IMPROVEMENT.

By the politeness of the Hon. Wm. Clarke, we have received an able report of Mr. Mercer relative to the Chesapeake and Ohio canal. It contains 414 pages, and is very valuable for the mass of information which it contains, not only in reference to this interesting work but to other works of internal improvement.

Length.

The canal when finished from Georgetown to Pittsburg will be 342 miles long, with a lockage of 3,158 feet. One hundred and seventy miles will be finished during the present summer.

Dimensions.

From Georgetown to the Little Falls' a distance of 5 miles, the canal is 80 feet wide, and 7 feet deep. From the Little Falls to Harper's Ferry, a distance of 60 miles the canal is 60 feet wide and 6 feet deep. Above Harper's Ferry the canal is 50 feet wide and 6 feet deep. Pivot bridges have been substituted for Permanent ones in order to avoid annoyance in the conveyance of passengers.

The greater dimensions of this canal, Mr. Mercer thinks will more than compensate for the great amount of lockage. In the first 41 miles the lockage is 217 feet by 27 locks. The report says, "the descent between the Great and Little Falls of the Potomac; a compass of eleven miles along precipices, is bounding a river which has borne on it ice and snow, elevated for several miles 30 feet above its ordinary height."

We have quoted these facts, in order to draw the attention of the public to the proposed Steamboat navigation of the Susquehanna. The greatest difficulty in the navigation of our river, is in the distance from Columbia to the Maryland line, a distance of 28 miles.—Let us compare this with the Potomac and we shall find that the difficulty is much less. The fall of the Potomac from the Point of rocks is 217 feet. The fall of the Susquehanna from Columbia to the Maryland canal is but 150 feet, and the rocks and precipices are not so great on the Susquehanna, as on the Potomac. But a canal has been made nearly as large again as the Pennsylvania canal, at an expense of about \$25,000 per mile. Who does not perceive then, that a ship canal 100 feet wide and 12 feet deep can be made from Columbia to tide, for \$1,500,000. From Columbia to Lake Ontario there are no serious difficulties—more than half the distance can now be traversed by steamboats.

Although this improvement is a great and noble work, yet we think Mr. Mercer's enthusiasm has led him into errors in his comparison of it with other works.

It will undoubtedly open the nearest and best water communication between the Ohio river and the Potomac, but it can never be the best route from the Ohio to Philadelphia and New York, as the report endeavors to prove. The following will disprove it.

Distances Compared.

	miles.
From Pittsburg to Georgetown by Chesapeake and Ohio canal,	342
From Georgetown to Baltimore, by proposed Maryland canal,	44
From Baltimore to Philadelphia by Chesapeake and Delaware canal,	121
	507
From Pittsburg to Philadelphia, by the Pennsylvania, Union Canal and Schuylkill navigation,	440
In favor of Pennsylvania route, If the Philadelphia and Columbia Rail Road	67

is substituted for Union canal the distance will be shortened, 46

In favor of Pennsylvania route, 103

But if the Susquehanna was made navigable from the termination of the Pennsylvania canal to tide, the water communication would be shortened from Philadelphia to Pittsburg, as the following will show.

From Harrisburg to Philadelphia, by the river to tide 62 miles; from tide to Chesapeake and Delaware canal 23 miles; Chesapeake and Delaware canal 14 miles; Delaware river 45 miles, 145

In favor of Susquehanna route, 12

It may not be a fact which is generally known, yet it is true, that the completion of the contemplated national steamboat canal by the way of the Susquehanna, if extended from Baltimore to the Potomac, would open a water communication with less than one-third of the lockage, between the LAKES and WASHINGTON CITY, at least 30 miles nearer than the Chesapeake and Ohio canal extended to Erie.

From the Lakes to Washington.

	miles.	lockage.
Chesapeake and Ohio Canal,	342	3158
From Pittsburg to Lake Erie,	168	about 600
	510	3758

From Lake Ontario by Seneca Lake and Susquehanna river, to tide, Chesapeake Bay and Maryland canal across Maryland, 480 ab't 1200

Difference in favor of Susquehanna route, 30 2558

From the Lakes to Baltimore.

	miles.
By the Chesapeake, Ohio and Maryland canals,	553
By the way of the Susquehanna Baltimore,	439

Difference in favor of Susquehanna route, 116

From the Lakes to Philadelphia.

By the Pennsylvania canals, Portage, Rail Road and Union Canal,	608
By the Seneca Lake, Susquehanna river, Chesapeake and Delaware Canal, and Delaware river,	458

Nearer by the Susquehanna route, 150

In every point of view it will be seen that no work ever contemplated has such transcendent advantages in a national and commercial point of view. That it will soon be so viewed by the nation, we have no doubt.

From the Pittsburg Gazette.

MEETING OF MASONS.

Pursuant to public notice, a large and respectable meeting of the Free Masons of the city of Pittsburg and county of Allegheny, "who deem the further continuance of the institution unnecessary," assembled at the house of Geo. Beale, in said city, on Tuesday evening, the 16th inst., GEO. COCHRAN of Richard was called to the Chair, GEO. R. WHITE, was appointed Secretary.

On motion of W. W. Fetterman, Esq., a committee of five, consisting of the following gentlemen, was appointed to draft resolutions expressive of the sense of the meeting, viz: W. W. Fetterman; Dr. Jos. P. Gazam, E. Pentland, John M'Kee, and Robert Burke.

The committee having retired for a short time, returned, and the Chairman submitted the following as the report of the majority of said committee.

Whereas, the public mind has been for a long time agitated and disturbed in relation to the subject of Masonry and Anti-masonry, causing discuss ons, dissensions, disagreements, and even very unpleasant feelings, if not often worse, between acquaintances, neighbors, friends, partners in business, members of the same churches, societies, and even families, which have necessarily produced no good, but, on the contrary, a great deal of evil; and it is desirable by every lover of peace and good order, by every well wisher to the peace and happiness of the community of which we are all members, that the floods of bitterness and strife should be stayed, and every effort in our power should be made to restore the peace and harmony that existed previous to the agitation of this unpleasant and painful subject. And, whereas, we do not believe that the good effects arising from Freemasonry, can adequately repay us for being continually enbroiled in wrangling and hostility, at direct variance with all the principles of good order—and being anxious, on our part, that the question should be set at rest, and peace once more restored to our community—I therefore be it

Resolved, That we recommend to the Lodges and Chapters of this Masonic District, to surrender their Charters, and close their Lodges and Chapters; and we earnestly invite all Masons, who have any regard for the character of the order, and the preservation of peace between man and his fellow man, to come forward and aid us in the cause of peace, by effectuating this object, and imitating the praiseworthy example already set us in our own and some of the sister states.

Resolved, That we deem it unnecessary to say any thing relative to the merits or demerits of Freemasonry, or any thing having a tendency to promote discussion on the subject, either now or hereafter, as we have no other view than the restoration of peace and harmony to the country, and are influenced by no other object in our action upon the subject.

Resolved, That the several Lodges and Chapters be requested to sell their property, and, after payment of their debts, apply the balance of the proceeds to such charitable purposes as their members may direct.

Resolved, That these resolutions be signed by the Chairman and Secretary, and all Masons who may assent to the same, and that these proceedings be published in the several papers in the city.

Resolved, That we approve of the sentiments contained in the subjoined memorial to the Lodges and Chapters of the city of Pittsburg, and direct the same to be published.

*To the Masonic Fraternity of Pittsburg and Allegheny county.*

Fellow Citizens:

We take the liberty of addressing you upon the expediency of dissolving the Masonic Societies in this city and county. If there be any thing valuable in Freemasonry, it is our privilege to partake of its benefits—if there be any sacrifice in putting an end to the institution, our loss will be the same as yours, and this consideration has inspired us with the hope that the reasons which have dictated this address will be justly appreciated.

As good citizens you must desire the public tranquility, and as men of sense and observation, you cannot fail to perceive, that the quiet of the country is continually disturbed by controversies, of which Freemasonry is made the subject. We can discern no end to this state of things so long as the masonic order exists among us, and we feel it our duty to declare that its continuance ought not to be persevered in at the expense of the public tranquility. If it be said that the proscription of Freemasons has been under-

taken for purposes separate from the public good, and with a view of subserving the ambition of individuals—our answer still is, that the existence of the institution is of secondary importance, and we are desirous to terminate an angry contest, by conceding its longer existence to the feelings and wishes of our neighbors.

In deciding, however, upon this course, we feel bound to declare that we have never considered Freemasonry as connected in any way with party politics, and that if it be a political institution, or perverted to political purposes, we are ignorant of it. We are alike ignorant of its alleged influence in our courts of justice. We would further declare that so far as we know the obligations of Freemasonry, they are not considered by us as overruling or interfering with the duties of morality or religion, or with the duties which we, as men, owe to the whole body of society. May we not in a spirit of conciliation, forego the benefits and gratifications which belong to Freemasonry, for the sake of allaying the fears, and removing the suspicions of thousands of honest and good men, respecting the institution? Is this a sacrifice too dear to be made on the altar of patriotism!

It has sometimes been urged that the destruction of Freemasonry as an institution, is not the object or the wish of the Antimasonic party, and that the dissolution of the order will not be followed by any abatement in the invectives and reproaches with which Freemasons are now assailed. We cannot believe this of the great body of the Antimasonic party—we believe they are strangers to the insidious and malignant spirit which these charges impute, and we would not for a moment act on the supposition that they are true. We verily believe that if the lodges and chapters of Freemasons of this city and county shall be dissolved, the bitter controversy now agitating the community will cease. But should individuals be found to keep it alive, and to persevere in denouncing such of their fellow citizens as are Masons, we have, in the good sense and justice of the people, a safe resource. They will readily detect the true grounds of the warfare against us, and disappoint the purpose for which it shall be carried on. We would, however, reiterate the opinion that no such warfare is to be apprehended.

Having submitted this brief indication of our sentiments, in regard to the course which we feel to be due to ourselves and to our country, we would entreat the several communities of Freemasons to take into consideration the object of dissolving the masonic institution in this city and county. We would ask them to do it as an act of deference to public opinion—as a concession to the great community in which we live.

Respectfully your fellow citizens,

James Adams,	M. B. Miltenberger,
D. S. Scully,	S. Smith,
Robert Christy,	John Hickey,
G. W. Bradley, late W.	A. McFadden,
M., of Milnor Lodge,	Sylvester Lothrop,
Lewis Peterson,	Jno. P. Bakewell,
Geo. Cochran, of R'd.,	Wm. Blackstock,
E. Pentland,	John F. Wrenshall,
Geo. Miltenberger,	Geo. Anshutz, jr.
J. P. Gazzam,	Wm. F. McClurg,
Isaac Lightner,	Thomas Scott,
Robt. Burke,	Saml. Fahnestock,
Geo. R. White,	Th. Brooks,
John McKee,	Jas. Correy,
W. Holmes,	Wm. Porter,
Geo. W. Jackson,	John Lloyd,
Geo. Beale,	A. Hays,
F. Lorenz,	James Hanson.

[Other names will be added as soon as procured by the committee.]

The question was then taken on the report of the majority of the committee, and it was adopted with but-

few dissenting voices, and signed by the following named gentlemen,

James Adams,	James Brown,
W. W. Fetterman,	Jacob Forsyth,
Robt Burke,	Thos. Hartford,
John M'Kee,	O. G. Craig,
Joshua Logan,	B. T. C. Morgan.
D. S. Scully,	Jacob Painter,
Wm. Holmes,	John Glime,
S. Smith,	Wm. Blackstock,
Wm. Porter,	M. B. Miltenberger,
Lewis Peterson,	Robt. Christy,
Geo. Anshutz, jr.	Wm. A. Irvin,
James Correy,	Alex. M. Anderson,
S. Lothrop,	Geo. R. White,
James Riddle,	Thos. K. Copeland,
Saml. Robinson,	Geo. Beale,
Saml. Fahnestock,	Henry Warner,
George Darsie,	John Wightman,
J. C. Downer,	Geo. Armstrong,
Thomas Scott,	John F. Wrenshall,
M. B. Lowrie,	Henry Higby,
George Cochran, of R'd.,	Anson Bidwell,
James Hanson,	C. Cowan,
Walter Forward,	Saml. Walker,
James Kerr,	Wm. James,
D. M'Donald,	H. Stevenson,
Isaac Lightner,	Geo. W. Jackson.
Chas. H. Israel.	

Dr. Gazzam submitted the following preamble and resolutions as the report of the minority, viz:

Whereas, several of the members of this meeting have signed a memorial addressed to the several lodges of this city and vicinity, recommending (for reasons therein set forth) the surrender of their charters, and the discontinuance of their meetings, and

Whereas, said lodges, after mature deliberation, have refused to surrender their charters and suspend their meetings, and

Whereas, in the opinion of this meeting, the lodges are the only competent tribunals to decide whether their charters should or should not be surrendered, and

Whereas, any further action in the premises by this meeting, would be virtually an appeal from the decision of said lodges to the public at large—from a competent to an incompetent tribunal, and

Whereas, such an appeal would be unjust, ungenerous, and highly inexpedient—therefore,

Resolved, That while this meeting disclaims for itself all desire for the continuance of Masonry, it cannot and will not infringe the acknowledged rights of others, to support and continue the institution of Free Masonry.

Resolved, That a public renunciation on the part of demitted, to active Masons, in favor of a surrender of charters or any other measure *after* a solemn decision of the lodges would be indecorous and disrespectful—a violation of the rights of those who choose to continue actively to support Masonry—would fail to produce the intended result, and would subject those so recommending to the imputation of unworthy motives.

Resolved, That in the opinion of this meeting, all measures adopted or contemplated by demitted masons, having or intended to have an influence on the interests of the lodges, should be communicated to the lodges alone.

From the Union.

CONJUNCTION THEORY.

"There cannot be a Conjunction without Chemical action, and there cannot be Chemical action without an increase of Temperature."

Experience is the only test of its accuracy.

Hot week in July.

July 6,—New Moon.	
Mercury at 3 o'clock.	84
7,	86
8, Conjunctions.	89
9,	92
10, fell to	80

Hot week in August.

Aug. 4, Conjunctions.	
5, New Moon.	
6,	
7, Conjunctions.	
8, Conjunctions.	
9,	

The Mercury ranged this week from 84 to 90.

Aug. 12,—This day was the hottest experienced in Lancaster for twenty years.

Mercury at 3 o'clock, 93

On this day was the Conjunction of Mars with Jupiter.

SEPTEMBER.

Wet Week.

Sept. 2, Conjunction of the Moon with Mercury,	Rain.
3, New Moon. The Mercury rises.	
4, Mercury at 3 o'clock,	81
5, Conjunction of the Moon with Saturn	Rain.
6, Conjunction of the moon with Venus.	81.

Rain is principally caused by the variation in the weight of the atmosphere, and that is chiefly produced by the attraction of the Moon and Planets. Water when in the atmosphere is held in solution by Caloric, (or heat) with which it parts when the atmosphere is attracted by the Moon and Planets in an unusual degree; the Caloric (or heat) thus disengaged increases the temperature of the atmosphere, while the watery particles form into clouds and finally fall on the earth in rain. As in the first instance there is a rise of temperature, so in the last there is a depression, as the water on the earth uniting with the Caloric (or heat) in the air, deprives the atmosphere of a portion of its heat, and thus causes the mercury to fall.

METEOROLOGIST.

BANK OF THE UNITED STATES.

The following correspondence, relative to the bank dividends, between Mr. Biddle and the Secretary of the Treasury, has been forwarded to the President of the United States; and by him furnished to the editor of the "Nashville Republican" for publication.

July 8th, 1834.

Sir—I have had the honor of receiving your letter of the 3d inst. requesting that the dividend on the stock of the bank owned by the United States should be placed to the credit of the treasury of the United States, at the office of this bank in Washington, which was this morning submitted to the Board of Directors. At the same time was presented a copy of your letter to the cashier of that office, dated the 2d instant, containing the final refusal of the treasury to allow the claim of the bank for damages on the protested bill upon the French Government.

After due consideration of the contents of these communications, I am instructed by the Board of Directors to inform you, that from the dividend payable the 17th of this month, there will be deducted the amount due to the bank for damages, costs, and interest upon the bill of exchange drawn by the Secretary of the Treasury on the French Government; and that the remainder shall be placed to the credit of the Treasurer, in the office at Washington, in conformity to your request.

I am further instructed to say, that this course is adopted by the Board of Directors, not merely from a conviction of the obvious justice and propriety of it, but because it furnishes the best, if not the only, mode of obtaining a judicial decision of the case by the proper tribunals. To procure that decision, the board will give every facility in their power; and if there is any other mode of submitting the rights of the respective parties to the judicial tribunals, more acceptable to you, any suggestion by you for that purpose will not fail to receive the prompt and respectful consideration of the Board of Directors.

In the mean time, I have the honor to be,

Very respectfully yours,

N. BIDDLE, President.

Hon. LEVI WOODBURY,

Secretary of the Treasury, Washington.

BANK OF THE UNITED STATES,

July 8, 1834.

Sir—I had this day the honor of informing you that the Board of Directors would deduct from the dividend payable to the United States, on the 17th of this month, the amount due to the bank on account of damages on the bill of exchange on the French Government.

I am instructed to apprise you, at the same time, that in thus enforcing their rights in this particular case, they desire not to be understood as waiving any other claim upon the Government; and they more especially wish it understood, that they do not waive their claim for full compensation and indemnity for the violation of the charter of the Bank, by the removal from its custody of the public funds, for the use of which the Bank had paid a valuable consideration. That claim is reserved in full force, to be asserted at such time, and in such manner, as may hereafter be deemed expedient.

I have the honor to be,

Very respectfully, yours,

N. BIDDLE, President.

Hon. LEVI WOODBURY,

Secretary of the Treasury, Washington.

TREASURY DEPARTMENT,

July 14th, 1834.

Sir—Your two communications under date of the 8th instant, have been received. The course pursued by the Bank over which you preside in determining to withhold a portion of the dividend due on the stock of the United States, has excited much surprise in this department, and at the present time, is more to be regretted, as Congress is not in session to provide for the deficiency thus caused in the estimated revenue from bank stock of the present year.

The claim for damages on the bill of exchange drawn upon France, to answer which it is stated that payment of part of the dividend is now refused, was disallowed by this department before the two last dividends were passed to the credit of the Treasury, and some months before the recent session of Congress commenced.—Consequently it is presumed that the claim, if not abandoned, would be presented and pursued before that body in the manner usual with claims against the United States, when the latter has not instituted any action at law against the claimant.

Besides these considerations it could not have been anticipated as probable, that all the dividends accruing would not be paid with promptitude and fidelity, when it was known, that the case of a failure in a stockholder to discharge his subscription to the capital of the Bank, was the only case where the charter makes an express provision, that he "shall lose the benefit of the dividends, and," in this instance, the United States, though a large stockholder, was not pretended to have been guilty of any breach of the provision. Notwithstanding this, it would seem from your communications, that the United States, though intimately connected

with the Bank, by having conferred the great privileges in its charter, by still using it daily as a fiscal agent for certain purposes, and by being entitled to a supervision of its concerns through Congress, has suddenly, without previous notice, and only by an implied or constructive power, not in the opinion of this department, warranted or necessary, been deprived of the use of most of its dividends, and for the purpose of satisfying a controverted claim, the law and equity of which were many months since denied by the executive, and have never been sanctioned by either of the other branches of government established by the Constitution.

In this condition of the subject, since the Bank did not deem it proper to present to Congress, the customary tribunal for settling such disputed demands against the United States; or during its late session, to apprise either that body or this office, of the extraordinary course intended to be pursued in thus seizing upon a large portion of the public dividends, while already in possession of more than a million of dollars belonging to the government, but hitherto uncalled for by its creditors or the treasury, this department does not consider that it has yet enjoyed a suitable opportunity, in relation to so unexpected a measure, to know the views or procure a desirable action of Congress; and, therefore, does not feel justified in making, at this time, any arrangement with the Bank, or any "suggestion" in respect to legal prosecutions; nor in recognizing any mode "the injustice or propriety" of the proceedings the Bank has been pleased to adopt.

But it will endeavour on the whole subject to present an early report to Congress at its next session, and to the President of the United States. In the mean time, if the Bank desires, before a report is prepared, that the facts and reasons in detail, on which its decisions, and especially its claim for damages on the bill of exchange are founded, should be examined by this department, the statement of them, whenever forwarded, will receive respectful consideration.

I have the honor to be, yours,

LEVI WOODBURY,

Secretary of the Treasury.

N. BIDDLE, Esq.

President U. S. Bank, Philadelphia.\*

#### PENNSYLVANIA CANAL.

TOLLS received on the Pennsylvania Canal and Rail Roads, for the week ending Sept. 13, 1834.

Philadelphia	\$1,931 47
Paoli,	176 49
Lancaster,	67 38
Columbia,	681 83
Portsmouth,	1,128 96
Harrisburg,	1,000 35
Duncan's Island,	38 05
Newport,	22 45
Lewistown,	256 47
Huntingdon,	89 11
Hollidaysburg,	1,769 11
Johnstown	1,535 08
Blairsville,	20 47
Leechburg,	22 97
Pittsburg,	604 46
†Beaver,	76 05
Liverpool,	35 09
Northumberland,	145 72
Easton,	1,132 28
New Hope,	72 79
Bristol,	435 03

Total, \$11,233 62

\*For the history of this bill, see Reg. vol. xii. p. 410.

†The return from Beaver is for the last 4 weeks.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 14. PHILADELPHIA, OCTOBER 4, 1834. NO. 352.

## AN ORATION

ON THE DEATH OF GENERAL LAFAYETTE.

*Delivered by appointment of the Citizens of the City and County of Philadelphia, at the funeral celebration which took place in this City on Monday, the 21st of July, 1834.—By PETER STEPHEN DU PONCEAU.*

Fellow Citizens,—Fellow Mourners,

When not more than ten years ago, the illustrious man, whose death we deplore, and whose virtues we are assembled to commemorate, re-visited this country after a long absence, and landed at New York amidst the greetings and acclamations of a grateful people, when the blessings of this whole nation echoed from our hills, and reverberated across the ocean to astonished and applauding Europe; how little did we think that in a few revolving years, our beloved Lafayette, our admired Hero, and cherished patriot, would be snatched from us, and that we should now be assembled to mourn over his tomb!

It is one of the weaknesses of our human nature, to fancy that those whom we love are immortal. In spite of daily experience, we are too apt to indulge in that preposterous feeling! We cannot reconcile ourselves to the idea of parting with our friends; we throw off that melancholy thought as far as we can from our imaginations, and when the stroke at last comes, it finds us unprepared, and our minds are incapable of resisting the impressions of sorrow. It was so when Washington died, at a moment when that event was least expected; we experience the same feelings on the death of his adopted son, Lafayette, the second in our annals, in our recollections and in our hearts.

Had Lafayette, after seeing his heroic efforts to secure our independence crowned with success, remained in Europe, and not re-visited our country, the lapse of half a century would have weakened in a great measure the impression that he left behind him, when he bid adieu to America shortly after the close of our revolutionary struggle: a few of our remaining veterans, a few of his surviving companions and associates in the great contest, would have mourned for the loss of the man; the nation at large, the present generation would only have known him as a hero, as an historical character, to whom the country owed a debt of gratitude; the news of his death would have excited their sincere regret, honors would have been paid to his memory, but those honors would not have been attended with the expression of that deep sorrow, which is now felt by the American people, who mourn not only for their hero, but for their personal friend and acquaintance. We should not now witness the same scenes which took place on the death of Washington, and which shall not be renewed, until another Washington or another Lafayette shall be sent by Providence to bless the world, and at last experience the common fate of mortals.

How dearly we now pay for that burst of joy which filled our country from one end to the other, when Lafayette landed among us in 1824! Where are the Præans that resounded through our cities, through our towns, and through our villages? Where are the glad-

dened faces of men, women and children, that thronged at the approach of the venerated patriot and hero? Those faces then so bright, those countenances so joyful, are clouded with grief; our shouts of triumph are changed into notes of sorrow. Memory retraces to our minds those happy days which have so soon passed away and are never to return.

From these pungent recollections arises in a great degree, the intensity of our grief. We have known the man whom we mourn, we have gazed upon his countenance, we have heard the accents of his voice, our hands have been pressed by his noble hand; we have sat with him at the genial feast; we have exchanged sentiments, mingled our feelings; our hearts have beaten in unison, we have breathed together our fervent wishes, for the happiness and prosperity of our beloved country—we have—But down, busy memory! I have not come here to increase your sorrow, but to assuage and soften it as much as possible; a hard task for one who has so much cause to regret the illustrious friend whom we have lost.

If there be any thing calculated to infuse consolation into our minds, it is the consideration that we are not alone in bewailing the death of that great man. He was not only dear to us, but to all the friends of liberty throughout the world. He was the champion of mankind. He fought, he bled, he triumphed, he suffered, he toiled; to the last moments of his life, he labored for the great cause of universal freedom; grateful nations poured their blessings on his head while he lived, those nations all join in lamentations for his death. I shall not speak for the present of America and France, the two countries who claim him, as the cities of Greece once did Homer, enough of other nations in tears demand our attention. They must first be made to pass in mournful procession before us.

The Poles, whose noble cause Lafayette supported with indefatigable zeal, in whose behalf he so often made the Hall of the Deputies of France resound with his manly eloquence, and whom he never abandoned to the last moment, weep for him.

The Italians, whom he roused to freedom, and who would have obtained it, if his Government, faithful to its principles, had seconded his efforts, weep for him.

The Spaniards, whose cause he espoused at all times; but chiefly when France sent a parricidal army into their country, to subject them to the yoke of a relentless despot, now cheered by the result of his patriotic efforts, with the hope of brighter days, weep for him.

The Belgians, free and independent, in consequence of the great revolution which Lafayette and his friends effected in the public opinion of Europe, weep for him.

The Greeks, whose constant and active friend he was during the whole of their eventful struggle for the independence which they now enjoy, weep for him. They will place his urn by the side of that of their own Byron, the noble but unfortunate imitator of our Lafayette,

The patriots of Great Britain, who owe the salutary reforms lately introduced in their government, and those which they expect to follow, to the impulse given by the successful efforts of Lafayette in his native country, weep for him

The persecuted patriots of all countries, to whom his arms, his house, his table, his purse were ever open, and who in the midst of their distress found in him a father, a protector and a friend, weep for him.

All the friends of liberty and national independence, wherever scattered throughout this wide world, all those who have minds to understand and souls to feel, the loss which mankind has sustained by the death of that great and good man, weep for him.

But there are two great nations by whom his loss is more severely felt than by any other; France, the country of his birth, and America, the country of his adoption. Between forty and fifty millions of men, all proud of calling him their countryman, are now allied and united in their sorrows, as fifty years ago they were in their arms and in their warlike triumphs. Those who shed their blood together in the same field, now shed their tears together on the same grave. What more solemn alliance than that which is cemented on the tomb of Lafayette! Thus, also, they wept together when Washington died.

Behold, my fellow mourners, the triumph of virtue, when death has stilled the angry passions of men! It was the fate of Lafayette, during the course of his long life, to be exposed to the rage of contending parties.—He was hated by the Royalists at the beginning of the French Revolution; by the Anarchists at a subsequent period, afterwards by the Imperialists, next by the friends of the restored Bourbon family, and lastly by the supporters of the government of that monarch, whom he raised to the throne of France; he was assailed on every side by the fury of enemies, to which a less firm mind than his would have succumbed; but scarcely has he breathed his last, when that fury has in an instant subsided, and all parties unite in deploring the immense loss that France as well as America has sustained. That very government, whose measures he so strenuously opposed, takes the lead in paying him funeral honors; no voice is heard through the capital of France but that of wailing and lamentation, a voice soon to extend through the whole of that great kingdom; consternation reigns every where; the palace and the hut alike are filled with grief; France has lost a great man, a patriot, a hero; another nation three thousand miles across the ocean, stands ready to claim him, and snatch from her the glory of his name; then his virtues are remembered; the voice of party is hushed, all crowd to scatter flowers over his grave, and already statues are erecting to his memory.

France may well boast of having given birth to our Lafayette. She may also boast of having possessed him a much longer time than we have. So England may be proud of having given birth to our William Penn, she may boast of having possessed him (except the very short time that he resided among us,) during his whole life. Still William Penn is and ever will be called the Father of Pennsylvania, and Lafayette, the second Father of the United States. Both will stand prominent in the list of American worthies, their American fame is the crown of glory that adorns their brows; there will remain enough after that for France and England to satisfy their reasonable ambition, and with that much they must rest satisfied.

Yes, America has at least an equal, and perhaps a better right than France to claim for herself the name and the fame of Lafayette. Here he never found enemies, except those of our country. Here he was not persecuted by base and wicked men. Here there never was a Marat or a Robespierre thirsting for his blood, and driving him for refuge into an Austrian dungeon. Here he was not treated with ingratitude by a party whom he raised to power, and forced into opposition to the government of his creation. From the moment when he first set his foot on our shores, to that of his lamented death, he was honoured, beloved and cherished by every one who bore the name of an American; when after an absence of forty years he re-visited his

adopted country, far from finding a diminution of affection in his American fellow citizens, he found the fire that burned in their hearts kindled into a blaze that extended from one end to the other of this vast empire, and he met with such a reception that no King, Emperor, successful warrior or patriot had ever experienced in any country before him. No wonder that he gloried in the name of an American, and that he would not have parted with it for any consideration; no, not for a crown.

But though an American in his heart, Lafayette loved France. Woe to the man who does not love the country that gave him birth! He loved France and he was beloved by the virtuous mass of her citizens. A numerous family of descendants by whom he was idolized, the graves of his ancestors, the tomb of an adored wife, whose devotion to him led her to share the hardships of his long and cruel imprisonment, and who lost her life in consequence of that heroic sacrifice, all those circumstances were well calculated to attach him to his native land; yet amidst those scenes, his heart turned towards this Western Hemisphere as surely and as constantly as the needle towards the pole. His beloved America was never for a moment absent from his mind. Had it not been for his family ties, there is no doubt that he would have made it his permanent residence. He never left our country without regret. Whenever he embarked in it for Europe, his heart addressed to us the pathetic lines of the unfortunate Mary Stuart, when she left her beloved France to go and take possession of her kingdom of Scotland.

The ship that does our loves disjoin  
Possesses only half of me,  
The other half remains with thee.\*

The glory which Lafayette acquired in the United States is pure and unmixed; his efforts have been crowned with complete success. In France he more than once met with obstacles which all his strength could not conquer, and he has left unfinished, the great work that he had undertaken, the barrier of republican institutions that he fondly hoped to erect round the throne of the monarch. His history as a citizen of France, is a history of noble but often fruitless efforts; as an American citizen, this rising Empire whose independence he so greatly contributed to achieve, will remain forever a splendid monument to his fame.

It is then with perfect justice that we claim Lafayette for our own. Our own he is, and our own he shall remain, as long as the name of Washington, inseparably coupled with his shall continue in honor among mankind.

I have sought in vain in ancient and modern history for a character to be compared with that of Lafayette. I have found none among the heroes of Plutarch; none among the great men of later times, one only excepted, whom I need not name to you, and whom Marshall has so felicitously described, as "first in war, first in peace, first in the hearts of his countrymen." Elsewhere I can find no parallel to our lamented hero; it is only in the fictions of poets that a picture of his character is to be found. Horace indulged his fancy, when in a celebrated ode, he described "the just man, tenacious of his purpose, who neither could be appalled by the frown of the threatening tyrant, nor by the rage of an infuriated people." The poet had no model before him, when he drew this admirable picture; he could find none to apply it to but his fabulous Heroes and Demi gods; but who is there among you, who is not struck with the resemblance that it bears to our Lafayette? it is his full length portrait, which, to bring

\*La net qui desjoint nos amours  
N'a ja de moi que la moitié,  
L'autre te reste —

Song of Mary Queen of Scots.

him completely before you, I have only to fill up by a few sketches from his long and eventful life.

When Lafayette at the age of twenty, first came to this country, he appears to have been actuated by two motives, one of which, no doubt, was the love of military glory. But that alone would not have been sufficient to induce him to leave his youthful bride, whom he loved with all the warmth and all the affection of his young heart, and to abandon the pleasures of a brilliant court, of whom he was one of the chief ornaments; but like a true knight of the old school, he burned with the desire of flying to the aid of the oppressed, and to be, in the language of romance, "a redresser of wrongs." For, I do not suppose that at that time he was very accurately informed of the causes of our contest with Great Britain, nor that bred at the court of an absolute monarch, he had imbibed any other than vague notions of civil or political liberty. But America was oppressed, that was enough for his generous soul; he left every thing that was dear to him, every thing that at his age and in his situation made life desirable, and flew to her assistance. He parted from his beloved wife, as Hector from Andromache; his future glories in his mind, and her image in his heart.

On his arrival in this country, a spectacle offered itself to his view, for which he surely was not prepared. He found thirteen colonies just emancipated from their dependence on a foreign country, waging desperate war against that country the most powerful in Europe, flushed with her recent victories upon her formidable rivals, France and Spain. He saw that war directed and carried on with vigor, by a Congress of Delegates, possessed of no other authority but what they derived from the tacit acquiescence of the people in the measures which they thought proper to take. He saw an army destitute of clothes, of provisions and of every thing which the comfort of soldiers require, following their chiefs to battle, enduring with them every kind of hardship and privation, and defying the well fed, well clothed, well armed, well accoutred, and well disciplined troops of the British King. At that time the United States had no allies; it was doubtful whether their cause would be supported by any of the powers of Europe; yet despondency was not perceived any where, courage and patriotism supplied the place of every thing else, and General Burgoyne was compelled to surrender to us with his whole army. Then Lafayette understood what liberty was, by the miraculous effects that he saw it produce; he vowed from that moment to devote his whole life to her cause, and he was faithful to his vow.

We must not wonder then, that all that he saw inspired him with that ardent love for America that warmed his breast to the last moment of his life. Other circumstances contributed to attach him to our country. The friendly, and we may say, the enthusiastic reception that he met with from our citizens, the blood that he shed in our defence at the memorable battle of Brandywine, the applause that he received for his gallant conduct in that battle, and above all, the perfection of the American character which he saw displayed in our illustrious Washington, whom he honored as a father, and who cherished him as a son, kindled his love for our country into what I should almost call a romantic passion which in time was matured into that warm, strong, solid attachment of which he gave proofs on every occasion while he lived.

I shall not take up your time in relating to you the many and essential services that Lafayette rendered to our country during the revolutionary war; how he distinguished himself in our battles and sieges; how by his scientific manoeuvres he prevented the meditated escape of Lord Cornwallis into South Carolina, when that able general heard of the approach of Washington with the allied army, and how he thus prepared his capture in the walls of York Town; nor shall I speak of the pecuniary assistance that he gave; of the

repeated voyages he made to Europe to accelerate French succours, nor of the part he took in the negotiations that terminated in the honorable peace of 1783; neither shall I describe to you the acclamations with which he was received when in the year following, at the request of his numerous friends, he paid a farewell visit to this country, which he little expected that he would be, forty years afterward, called upon to renew. All these are matters of history well known to us all; taken together they are but one scene in the life of the illustrious deceased, a glorious scene, it is true, but which is so impressed on your minds that there is no need of bringing it to your remembrance; my object is to show you his constant attachment through those forty years to the principles of American liberty, and how he never for a moment deviated from the design that he had formed, of making them predominant in Europe, and, if possible, throughout the whole world.

I shall pass over in like manner the brilliant reception that he met with on his return to his native country, where all ranks united to do homage to the American hero. No one dreamed at that time of the Revolution that was to take place in less than five years. The King was then employed in making some salutary reforms, which Lafayette promoted with all his might, all the while revolving in his mind how he could bestow upon France the blessing of liberty. It was not long before an opportunity offered to express his sentiments upon this subject. At the meeting of the notables, which took place in the year 1787, he had the courage to move for the convocation of the representatives of the people. "What," said the Count d'Artois (since Charles X.) who presided over the Bureau where Lafayette sat, "do you ask for the States general?"—"Yes," answered our hero, "and for something more and better." This motion was, of course, considered as absurd and preposterous. Two years afterwards it was carried into effect. The States general were summoned, met at Versailles, and liberty dawned on the horizon of France.

Lafayette was elected a member of that memorable assembly, and brought into it his American feelings. He produced his celebrated "Declaration of rights," of which he had found the model in the constitutions of this country. There are politicians who believe that those declarations of abstract principles are of little use, and that they rather serve to embarrass governments than to secure the liberties of the people. But history has taught us, that they often stand in the way of abuse of power, and experience has shown the importance of the "Bill of rights," which has been annexed in the way of amendments to our excellent constitution.

Throughout the whole of the sitting of the national or as it was called the Constituent Assembly of France, Lafayette was always found on the side of rational liberty. He was among the first to abandon the privileges, the titles, the insignia of nobility, and although they have been since revived, while others crowded to resume their former distinctions or to receive new ones, he remained firm to his principles, and never would bear any other title than that of a "citizen." Once during the period of the restoration, he was summoned as a witness before a Court of Justice. The President of the Tribunal called him by the name of "The Marquis de la Fayette"—"I hope, sir," said he, turning to the Judge, "the Court does not mean to insult me."—From that moment his republican scruples were respected, and no further attempts were made to "insult" him with a title of nobility.

During our revolutionary war, however, he was better known by the title of "Marquis," than by his own proper name. Our soldiers called him "General Marquis." On his last arrival into this country, while in the steamboat that carried him from Staten Island to New York, his revolutionary friends who surrounded him, frequently called him by that title. Somebody

observed to him that it was not quite proper, "Oh! never mind," said he, "it is a friendly *nickname* given me by my companions in arms; it reminds me of former times." Those glorious times were ever present to his memory.

It is well known that at an early period, during the sitting of the National assembly, he was appointed Commander-in-chief of the National guards of the kingdom, and continued in that office until the constitution was accepted by the king, when he resigned it and retired into the country. Then he had the whole French nation in arms under his command, and enjoyed the most unbounded popularity. What an opportunity was there of seizing on the supreme power! But Lafayette had Washington before his eyes, and the soul of Washington animated him. He wished to raise the people of France to freedom, not to raise himself by the destruction of their liberties.

From the time of the dissolution of the National Assembly and of Lafayette's retirement, there was no longer any check to the violence of popular excitement; anarchy raised its execrable head, and France was plunged into those horrors which history will too faithfully relate, and which it is not my intention to retrace. Petion was appointed Mayor of Paris, with Robespierre as his attorney general; the weak party of the Girondists tried for a time to stem the torrent of Jacobinism, but their efforts proved vain. The unfortunate Louis and his family were imprisoned, and afterwards barbarously put to death; a mock republic was proclaimed; with Terror at its head; the soil of France was drenched with the blood of her citizens, and at last after fruitless efforts to organize her Government under a republican form, that ill-fated country was obliged to seek repose under an arbitrary monarch, who led her from conquest to conquest, until indignant Europe turned upon her invaders, retaliated upon France the evils which she had made them suffer, and compelled her to replace on the throne, the royal family whom she had rejected, who after fifteen years of unpopular government, have been again expelled, and another branch of the same family called to occupy the throne.

During this period, amidst all the Revolutions and the changes that took place, beset with the most dazzling temptations, and assailed by the severest trials, Lafayette remained firmly attached to his principles, and never was known to deviate from them for a single moment. His principles were republican, but considering the situation of France, which he knew not to be prepared for so great a change; he was satisfied to sit down under a monarchy, but wished it to be surrounded by republican institutions. Whether he was right or wrong in his expectation to see such a form of government succeed in his native country, it is not our business to consider, it is enough that such was his opinion, and that he persevered in it, and directed his efforts towards establishing it in practice from the beginning to the end of his career. This principle, to which he constantly adhered, explains all the acts of his long and heroic life.

Thus, while he exerted all his efforts to raise a strong barrier of civil and political liberty round the French throne; he supported to his utmost, the just rights of the monarch, and would not suffer them in any manner to be infringed. In spite of the vile accusations that were raised against him, respecting his conduct, when he brought the National guards to Versailles on the 5th of October, 1789, when a ferocious mob attempted to murder the unfortunate Louis and his family, it is now undeniably proved, and generally admitted, that he saved their lives in the dreadful night that followed; this was acknowledged by the virtuous princess Elizabeth, and if further proof were wanting, we have the testimony of Madame Campan, the confidential attendant of Marie Antoinette, who tells us in her memoirs, that at a subsequent period, Lafayette offered to

favor the flight of the king and his family to a place of safety, but the ill-fated queen refused the proffered assistance, alleging for a reason, "that it should not be said that their lives had been saved *twice* by that man." She knew Lafayette's fidelity; but she disliked his principles, and on that account, considered him as the enemy of her family. It is the misfortune of princes not to know their friends from their enemies, of which the aversion of the late queen of France for Lafayette, presents a striking instance.

Marie Antoinette was inspired with her aversion for our Hero, by the friends of absolute power by whom she was surrounded, and by the despotic princes of Europe with whom she was connected by family ties. Those princes saw in Lafayette an apostate from his own caste; he had betrayed, they thought, the interests of the high nobility to which by his birth he belonged, they thirsted for vengeance, and an opportunity soon offered of satisfying their desire.

Shortly after Lafayette's retirement, war had been declared by France against Austria, and he had been appointed to the command of one of the three armies that had been raised against that power. But it was not long before such insults were offered to the monarch of France, as plainly showed that his life was threatened, Lafayette had the courage to leave his army, and appear alone before the National Assembly to remonstrate against those outrages. He was applauded, but hardly had he returned to his camp, with the intention of marching upon Paris, to protect the king's life, when he found that his army had been tampered with, and he was not safe in the midst of them.

He determined to retire into a neutral country; but while on his way to Holland, he was taken by the Prussians and delivered by them to the Austrians, his bitterest enemies, who confined him as the vilest of malefactors, in the citadel of Olmutz. He remained five years a prisoner, at the end of which, after a fruitless effort to save him by the brave Bollman and our heroic Hunger, he was liberated at the command of General Bonaparte, who made his liberation a condition of the peace which he granted to Austria at the end of his brilliant campaign in Italy, in the year 1797.

I will not disgust you with the recital of the horrors of his prison house; they were such that even a knife and fork were not allowed to him; because, it was said, his situation was such, that death would be a relief to him, and he should not have it in his power to put an end to his existence. His admirable wife chose to share with him that cruel imprisonment, though (not foreseeing what afterwards happened,) she was convinced that it would end only with their lives. Who can describe their sufferings during that most severe of all trials? O, with what joy, with what triumph they must have met together in a better world!

When Lafayette left his dungeon, France was apparently settled under a republican form of government; but injustice still prevailed, and he remained proscribed under the laws made against emigrants. Whether he could at that time have obtained permission to return to France is not known; be that as it may, he remained with his family in a neutral country until the revolution, which in the year 1799, placed Bonaparte at the head of the republic of France, under the title of First Consul.

Lafayette did not forget the obligation he owed to his deliverer; he expressed his gratitude to him by a letter, which was published in all the newspapers of the time. There is no doubt that he would have supported his government, if he had thought that it would be carried on on principles that he approved; but when he saw that his benefactor took a different course than that which he expected, he refused to be connected in any way with his administration, and returned to his country residence, where he devoted himself entirely to agricultural pursuits. He took no part whatever in political affairs. When Bonaparte procured himself to

be made Consul for ten years, and afterwards for life, which Lafayette clearly saw were only steps to raise him to the Imperial throne, he gave his simple vote against those measures, but took no steps to oppose the government. The most brilliant offers were made to draw him into public life; those he constantly refused, and thus while he rejected the favors of that illustrious chief, he secured his respect and esteem.

The Bourbons returned, having learned nothing, and forgotten nothing during their exile. So unwise were their measures, that Bonaparte at the end of one year, landed in France with a handful of men, triumphantly marched to Paris, and again took possession of the throne. But his star had set; all the powers of Europe combined against him, and at the end of three months, the memorable battle of Waterloo decided his fate.—He had no chance left him, but assuming the Dictatorship; Lafayette who had been elected a representative of the people compelled him to abdicate, in vain relying on the promises of the allies to let France settle her own form of government. But they did not keep their words, and the French nation was again forced to submit to the government of the expelled family.

The remainder of the story is well known. Every one of us has witnessed the conduct of Lafayette within the last twenty years; how, as a representative of the nation, he opposed the unwise measures of the restored government, and their constant violations of the charter which they had themselves granted, until the people, tired of their yoke, expelled them for the third time, and again resumed the power into their own hands. It was during that period that Lafayette, at our pressing invitation, re-visited again this country, in the year 1824. The acclamations with which he was received, are still resounding in our ears. He would have met with the same reception on his return to his native country, if the government had not checked the enthusiasm of the people, which nevertheless, displayed itself in various ways, to the great terror of the rulers who were soon to abandon the stage. Five years had not yet elapsed after his return, when the revolution of July 1830 took place, which placed the present monarch on the throne of France.

Every one acknowledges that Lafayette had it then in his power to have organized France into a Republic, and assumed to himself the supreme authority. But he adhered to the principles which he had always maintained respecting the government of France, "a monarchy surrounded by republican institutions, and liberty combined with public order." He had reason to believe at the time, that he would see those principles firmly established by the election of Louis Philip; how he came to be disappointed, it is not our business to examine; suffice it to say, that his expectations were not fulfilled, and that he found himself obliged, as a representative of the people, to oppose the measures of the government he had created. In his eloquent speeches from 1830, to the time of his lamented death, you still find the Lafayette of 1789; the lapse of forty years has made no alteration in his opinions and in his principles; and when America, his beloved America is the theme, then he rises above himself, conviction with soft persuasion flow from his lips; his whole heart, his whole soul are engaged in the contest. His last effort was in support of our just claims on the treaty of indemnity; from his bed of sickness he warned his countrymen against injustice; his voice was heard, but from a distance; his noble countenance was not there, to frown his opponents into shame; but he will be remembered, and respect for his memory will obtain what his dying voice could not command.

Thus, my fellow citizens, you have Lafayette all before you, the firm, constant, persevering and never varying friend of America, of liberty and of the rights of man, and the supporter of the laws and public order.—I defy any one to produce such another character,—Washington only excepted, in or out of history. To

use the language of an eloquent French writer, nature has broken the mould in which she cast those two admirable men.

But after describing the hero, shall I not be allowed to say a few words respecting the man. Permit me to devote a few of your moments to the recollection of his virtues.

Lafayette was as good as he was great. He never could have gone through the severe trials that he was doomed to experience, if his heart had not been soothed by the balm of human affections. Those in his latter days he enjoyed pure and unmixed. It was his happy fortune to be surrounded by a numerous family of descendants whom he tenderly loved, and by whom he was cherished in return. Those who have seen him at Lagrange, surrounded by his children and grand children, have been unanimous in their admiration of that scene of happiness, worthy of the patriarchal ages. How changed since the last fatal event! Let not our imaginations dwell upon scenes too painful for us to contemplate.

Lafayette was generous to a fault. His hospitality was unlimited, his charity knew no bounds. No American ever entered his door, without meeting with the most cheerful the most hospitable reception. The distressed, the persecuted of all nations were his children. He was the father of all the exiles whom the revolutions of Europe threw in his way. The Greeks, the Poles, the Italians, the Spaniards, all participated of his bounty. What he possessed, he considered as a trust for the benefit of the poor and the oppressed. The blessings of thousands whom he relieved, accompanied him to his grave.

Lafayette was eloquent. His colloquial powers were seldom equalled. His answers to the numerous addresses that were presented to him in every city, town and village, in his last triumphant progress through these United States, were seldom, if ever, prepared.—In a language not his own, but which he spoke with great purity, his replies were often elegant, always apposite, always appropriate. He possessed in a very high degree, the talent of narrating. When last in this city, he was allowed one day, to enjoy himself as he pleased, without officious interruption. He invited a few of his companions in the war of the revolution, to dine with him in private. During the whole repast, and until late in the evening, he entertained them with anecdotes of the times that they had passed, and so much engaged their attention, that when evening came, they were loth to part from him, and if decency had permitted it, they would have spent the whole night, listening to his interesting and instructive discourse, and admiring the eloquence that flowed from his lips.

Lafayette was cheerful. He loved to mix with youth and participate in their amusements. When visiting the University of Cambridge, in Massachusetts, in the year 1824, he was invited to the annual dinner of the Phi Beta Kappa Society, consisting chiefly of young graduates, all disposed to be merry, and enjoy themselves in style, *more majorem*. The dinner was presided by a venerable judge, who laying aside the gravity of the bench, was the first to give the signal of hilarity, and decent mirth. The signal was promptly obeyed; puns, conundrums, witty toasts, scraps of macaronic Latin, were bandied about from one end of the spacious hall to the other. Lafayette entered into the spirit of it all; and peals of honest laughter resounded every where. He gave a toast in Latin, which was received with unbounded applause. Pure, unmixed happiness was depicted on every countenance. The memory of that feast will long be held in remembrance by the Alumni of Harvard College.

In the company of females, Lafayette displayed those polished manners by which he once charmed the brilliant Court of Versailles. To sensible women, he knew how to give the opportunity to display their mental

qualities; others he could entertain with small chat, which he knew well how to adapt to those he conversed with, so that he always found the means of leaving them pleased with themselves, and of course with him. His age was forgotten in the charms of his conversation, and in the elegant urbanity of his manners.

To describe to you all the excellent qualities of our Lafayette, would require an abler pencil than mine.—His picture is deeply engraved on my heart; but vividly as the image is impressed on my memory, I do not possess the requisite talents to reflect it to your minds with all its grandeur, with all its beauty, and with all its perfections. I have attempted only a faint resemblance, your recollections must supply the rest. I leave it to some future Plutarch, to transmit that cherished image in a manner worthy of the theme to posterity. It will be, I hope, an American, who will thus immortalize his own name, by recording the deeds of the hero, and the virtues of the man.

Already the arts are vying with each other, to preserve the memory of his features, and it is with pleasure and pride that I find that our citizens, are foremost in the noble race. An American artist, Mr. Greenough, now residing at Florence, has made a beautiful Bust of our hero, in Italian marble, excellent as a work of art, and which presents the most perfect likeness of Lafayette that has yet been obtained. That Bust is now in the possession of our Academy of the Fine Arts, to whom it has been presented by Mr. Kinloch, of South Carolina, now residing in Italy to perfect himself in the Art of Sculpture. I have seen and admired that fine performance, I hope that no American who shall pass through our city, much less those who inhabit it, will deny himself the melancholy pleasure of gazing upon a countenance that has so long and so often beamed with love and affection for our country.

But not sculpture alone will dedicate its labours to the memory of Lafayette. The glorious theme for many ages to come, will call forth the exertions of genius and talent of every kind. Poetry, painting, history, biography, the drama, may romance itself, will celebrate his exploits and his virtues. He will be the Pindar of some future Ossian, and some Walter Scott, or Cooper, after the lapse of several centuries, will adorn his tale, and point his moral with that illustrious name. Our descendants will enjoy with pleasure and pride, the recollections that now fill us with grief.

The feelings of the moment suggest to me a melancholy but noble subject for the exertion of the talents of our painters; I mean "Lafayette at the tomb of Washington." I remember the time when one could see in every house, the engraving of an imaginary Charlotte at the tomb of an imaginary Werter. How much more interesting, how much more sublime would be Lafayette, standing, mournful and pensive before the grave of his father, of the father of our country! Where are our Trumbulls, our Leslies, our Sullys, our Vanderlyns? Let them at once grasp their pencils, and I can assure them that they will never have executed a work more popular, or more congenial to the feelings of the people of the United States.

The French, who, like ourselves, glory in calling him their countryman, will also join in perpetuating his fame. May we not hope that Chateaubriand, the most eloquent writer of the age, will sing Lafayette's praises in his own harmonious language. He loves America, he has lived among us, he has sung our forests and the children of nature who once inhabited them. He knew and revered Washington, and was received by him with merited kindness. Will he not, rising above all minor considerations, bestow a few strokes of his eloquent pen, on the adopted son of the hero he admires, on the true, but misjudged friend of the unfortunate Louis?

But it is not eloquence that is wanted at the present moment. Our feelings do not require to be excited, but to be subdued. The day will come when the

lenient hand of time shall have softened our sorrows; then you will listen with pleasure to some gifted orator who will scatter flowers by handsfull upon the tomb of our lamented hero. Now it has been a hard task for us, merely to pass over a few of the most prominent traits of his valuable life; but the painful recollections that they have excited in your minds, should give place to consoling reflections. Another Washington and another Lafayette we can never expect to see again; they are lost to us, but not to each other, and while we bewail our own misfortune; we must think of the happiness that they enjoy together in glory, a happiness that we may also hope to enjoy by imitating their virtues. The country that can boast of two such men will have no excuse if it should ever swerve from the path of virtue. It must be and remain a virtuous country, or it must fall at last, unpitied and unmourned.

From the Franklin Intelligencer.

### IMPROVEMENT OF THE ALLEGHENY RIVER.

Mr. Editor.—As the subject of improving the Allegheny river for the navigation of steam boats, is becoming an important consideration, both as a state and national object, it behooves the public to consider well this matter before they enter upon the grand design, lest errors be committed and a useless expenditure of money be the result.

I therefore take the liberty to throw out a few suggestions relative to the mode, or kind of improvements which will best answer the great end, and attain the object in the most perfect manner, without extending the expenditure above a reasonable sum, compared to the consequence deducible from the object gained.

Sundry modes might suggest themselves as being proper for the improvement of this stream.

First.—A canal, unconnected with the stream, except it be by low dams, for the purpose of feeders, in order that the descending navigation may be preserved. The objection to this plan is the great expense—\$25,000 per mile will not more than be sufficient to make this plan complete, from the Kiskiminetas to Olean Point; the distance will be about 220 miles, and consequently the expense of this plan will be five and a half millions of dollars.

Second.—An improvement of the natural channel of the stream, by wing dams, and clearing out a channel for boats. This plan will probably be the cheapest in the first cost, but will require a constant and heavy expenditure to keep it any ways in a reasonable navigable condition; besides, about four months will be lost of each year by low water in the stream. This plan might be estimated to cost about half a million of dollars, from Pittsburgh to Olean, 250 miles, or about \$2,000 per mile.

Third.—An improvement of the natural channel of the stream, with short pieces of canal around the principal falls or rapids, with lift locks—low dams in some instances at the head of the falls or rapids but not so high as to interfere with the descending navigation of the stream. Guard locks must be built where dams are used. This mode is liable to similar objections as the last mentioned, but not to so great a degree; very light draught boats may pass through the principal part of the season, and the yearly expense will be lessened provided the locks and dams are permanently built.—Cost probably about \$750,000.

Fourth and last.—This plan is to make a complete slackwater, and steamboat canal locks around the principal falls, with a depth of water permanently of not less than five feet. Locks 25 feet wide, and 140 feet in the chambers. The cost of this plan will probably exceed the two last mentioned, and may be estimated in the following manner:—

Lockage, supposed about 450 feet,	\$500,000
Thirty dams, average 16 feet high, and 600 feet long.	450,000
Ten miles of excavation of short canals,	100,000
Total cost, or \$4,200 per mile,	\$1,050,000

This improvement would be the most perfect artificial navigation possible to be made. Transportation upon this kind by steamboats would be done with at least half the cost of the carriage upon the best constructed canal. The plan estimated upon is supposing the work to be done in the best manner—cut stone locks, stone abutments to the dams, &c. &c. the repairs would consequently be light.

The lumber business would be improved to a considerable extent, by the adoption of this mode of improvement. At present this business is confined to the spring and fall fisheries, causing great accumulations of the lumber at particular seasons in the market, and thereby overstocking the trade, and hence depression in price is the obvious consequence, and highly ruinous to the industrious and hard working lumbermen, who in general are obliged to sell, let the price be what it may. It is believed that hundreds of thousands of dollars yearly would be saved to those engaged in the lumber trade, and consequently the landed property upon the Allegheny and its head waters would be much enhanced in value. If we suppose the land situated upon the Allegheny for 250 miles in extent, and 20 miles each way from the river, to rise in value upon an average of only one dollar per acre, the increase would be upwards of six millions of dollars. No one can doubt but this would be the consequence, and even a much greater effect might be safely assumed. But enough is shown by this calculation, to cause that no one hesitate to adopt efficient measures for the immediate prosecution of the work. Every person owning ten acres of land upon the river has a sufficient inducement to step forward and by petition or otherwise, adopt some mode whereby this great object shall be effected.

It can hardly be doubted by any one that this is a national object, but under existing circumstances it appears hard to engage the attention of our national legislature, in works of this kind. The great national treasury has so many calls upon its resources, that necessity compels restrictions upon the calls of the different parts of the community, for expenditure of money upon the various projects of the day. One plan has suggested itself to me as being feasible. The great states of Pennsylvania and New York, are particularly interested in the improvement, and no doubt could by their influence in the national councils, procure a grant of land from the United States, particularly specified for this object; the sales of which should be pledged for the payment of interest and principal of any debt contracted in the execution of this improvement. This would enable these states to borrow money immediately, and in no wise be burthensome on account of the debt contracted, and cause the work forthwith to be completed.

I should be glad to hear other person's views upon this subject. I merely have thrown out these hints in the hopes of eliciting something that may be useful to the public, in the forwarding of this all-important improvement.

L.

From the Kittanning Gazette.

#### INTERNAL IMPROVEMENT.

Public enterprise, in matters of internal improvement has heretofore outrun the most sanguine anticipation.—Dr. Witherspoon, shortly before his death, predicted that the day would come when a turnpike road would be

constructed across the Allegheny mountain, but the idea was then considered extravagant, yet; although but little more than forty years have elapsed since the prediction was uttered, the day is now long past when it was verified, not by one turnpike road, but many, and we now see stranger things still—we see these same turnpike roads almost abandoned for other means of conveyance, which, in Dr. Witherspoon's day, were unknown and unvented. And even yet, the great system is in its infancy; and it is right that we should look ahead and anticipate what is yet to come, and make the most accurate calculations that the nature of the case admits of, in order to estimate what share this section and that section of country may yet enjoy, as the system gradually advances. This brings us home to a point upon which we have bestowed considerable thought.

Suppose it should be determined that the Allegheny river shall be the route by which the Pennsylvania canal shall be extended to Lake Erie, what will be the prospect of the country lying between the Allegheny river and the West Branch of the Susquehanna? We think we shall not be thought extravagant when we predict that a canal or rail road from the one to the other of these rivers will as certainly follow as that effect follows cause. The distance across at the near st approach, does not exceed forty miles. It is confidently asserted by many gentlemen that a sufficiency of water can be obtained on some of the routes to feed a canal: or at all events, the ground is vastly better adapted to improvement by rail road than that over which the Portage rail road passes. But it is not our object at present to discuss the merits of the different routes, or of the different modes of improvement, but simply to argue that the anticipation of what we have here predicted is altogether reasonable.

A communication between the Allegheny and Susquehanna, any place north of Kittanning, would be the most direct route through which Pennsylvania can ever draw the trade of Lake Erie. A glance at the map is the only argument necessary to prove this. In this view it is a subject of great interest to the whole commonwealth, and comes in as a powerful relative consideration in favor of the Allegheny route.

But to the new and important section of country between these two rivers it is all important. No section of our state is richer in minerals than this; and none is so destitute of any tolerable access to market. But let an improvement of this kind be made, and the iron manufacturers of Centre, Clearfield, Jefferson and Armstrong would have a direct avenue through which to send their iron to Pittsburg, and also to draw their supplies from the more western counties. A large and mutually beneficial trade would immediately result; and an impulse would be given to the improvement of this now isolated region that would soon bring it on a par with the older and more favored sections of the state. There is an immense quantity of fine land in the country between the Allegheny and Susquehanna, yet in a state of nature; but what inducement is there to purchase and occupy even fine land at a low price, from which there is no outlet? This is a point to which we would invite the attention of the wealthy eastern proprietors of these lands.

Well then, the improvement of the Allegheny is the first step towards this desirable object—an object in which the whole country from Northumberland to Erie is interested.

We throw out these ideas as the result of our own reflections; and we repeat what we before said, that it is wise to look ahead and calculate what effect one thing will have upon another. All human improvements advance step by step—one thing leads on to another—and as we ascend the eminence, the prospect becomes wider and clearer. We now invite the reader to look out for himself, and then say whether our anticipation in this matter is not reasonable and just.

From the Philadelphia Gazette.

# PROCEEDINGS OF COUNCILS.

Thursday evening, Sept. 25th, 1834.

## SELECT COUNCIL.

A petition for the regulation of Walnut street, and remonstrances against the erection of engine houses in Market street, and against appropriating Rittenhouse Square as a military parade ground, were presented by Messrs. Price, Wetherill, and Lippincott, and referred.

Mr. Groves offered a resolution that two copies of the new edition of the Digest of Ordinances, be presented to each of the incorporated districts in the vicinity of the city, which was agreed to, and concurred in by Common Council.

Mr. Groves, from the committee on Fire Companies, presented the annexed report, the resolutions attached to which were adopted, and concurred in by Common Council.

The committee on Fire Companies, report,

That they have recently visited the different Fire Engine and Hose Companies, and agree that the sum of 7000 dollars, which has been appropriated by Ordinance, be divided amongst the several Companies, as follows, viz:

Engine Co's.	Names of the Presidents.	
Assistance	Daniel R. Murphy	\$245 00
Columbia	Daniel Knight	245 00
Delaware	Townsend Sharpless	245 00
Diligent	Edmund A. Souder	291 50
Good Will	Adam Eckfeldt	245 00
Hand in Hand	William B. Whitaker	245 00
Harmony	Emmor Kimber	245 00
Pennsylvania	Caleb Cope	291 50
Philadelphia	Philip Garrett	291 50
Hibernia	James McDonald	245 00
Reliance	Anthony Null	245 00
Vigilant	George W. Tryon	245 00
Washington	Frederick Forst	245 00
<i>Hose Companies.</i>		
America	William Jackson	282 00
Columbia	Samuel G. Ruggles	282 00
Fame	Jonah Hallowell	282 00
Good Intent	John Leadbeater	282 00
Hope	Alexander Henry, jr.	282 00
Neptune	Nathaniel Mercer	282 00
Perseverance	Peter Fritz	282 00
Philadelphia	John Price Wetherill	282 00
Phoenix	Edward C. Nesbit	291 50
Resolution	Charles Schaffer, jr.	282 00
Southwark	James Stuart	282 00
Washington	C. J. Boulter	282 00
Robert Morris	J. B. Andrews	282 00
Amount appropriated,		\$7,000

They therefore offer the following resolution:

Resolved, That the Mayor be authorized to draw his warrant on the City Treasurer, in favor of the Presidents of the Fire Companies, for the sums annexed to their several names.

They also report, that they have visited the Schuylkill Hose Company, whose apparatus is located in Locust street, above Twelfth street. This Company has been lately instituted, and does not come within the provisions of the existing ordinances, but inasmuch as the members have gone to considerable expense in procuring hose, and are about establishing themselves, and have made application for relief, which the committee have it not in their power to grant, they recommend the passage of the following resolution:

Resolved, That provision be made by Ordinance, granting to the Schuylkill Hose Company, a portion of the sum already appropriated, or making a specific ap-

propriation for their relief at the next annual distribution.

When the report was read in Common Council, Mr. Wright rose and stated that the examination of the several fire apparatus in the city, had afforded the committee of Councils entire satisfaction. All the property of the various companies appeared to be in excellent order, and ready for efficient service. Many inquiries had been made by the committee, in relation to the number and age of members, with a view of satisfying some who were not informed on these subjects. From these inquiries, it appears that there are located in the city, 13 engine and 14 hose companies, comprising in the aggregate 2006 members, of whom 1198 are active, 808 honorary, and 790 attentive members. The number of persons, belonging to the various companies, under the age of 21 years, is but 91. The aggregate quantity of hose, ready for use at all times, is 24,146 feet, equal in length to nearly five miles. Mr. Wright spoke of the efficiency, neatness and beauty of the fire apparatus, in high terms of praise, and passed a well-merited compliment upon the activity and public spirit of the members.

The following table was prepared by the committee during their visits to the companies.

Engine and Hose Companies.	Class.	Active members.	Honorary memb's.		Attentive memb's.		Under 21 years.	Age of apparatus.	Aggregate of feet.
Assistance E.	9 inch.	44	35	44	10	7			600
Columbia E.	8 do	25	35	25	2	6			500
Delaware E.	8½ do	43	11	43	10	9			100
Diligent E.	9½ do	38	41	20	2	13			1000
Good Will E.	8 do	50	10	25	2	6			800
Hand in Hand E.	7½ do	40	20	35					120
Harmony E.	7½ do	55	22	0		10			500
Reliance E.	8½ do	45	31	28					110
Vigilant E.	9 do	63	34	45	6	4			500
America H.		25	23	15	1	3			1020
Fame H.		42	17						1020
Good Intent H.		28	18	15	2	1			1100
Hope H.		73	42	60	3	*			1200
Neptune H.		58	25	25	2				1200
Perseverance H.		40	25	25	5	3			1200
Philadelphia H.		29	70	23	1	3			1000
Phoenix H.		45	27	25	8	1			900
Resolution H.		33	27	20	3	2½			1400
Robert Morris H.		31	26	20		1			1000
Schuylkill H.		40	0	40		+			1000
Washington H.		45	15	40	6	2			1100
Columbia H.		54	60	35	10				1000
Hibernia E.	7½ inch	74	52	20	7	*			400
Pennsylvania E.	9½ do	42	54	30					1330
Philadelphia E.	9 do	50	28	20	5	+			1046
Washington E.	8½ do	76	18	50	2	2			500
Southwark H.		30	63	50	6	3			1500
		1198	808	790	91				23146
Number of members in all 2006.									
* Rebuilt.		† Old							

Mr. Lippincott, from the committee on lighting the city with gas, made a report, recommending that the subject be recommended to the early attention of the next Councils, which was agreed to.

Mr. Price, from the committee appointed to communicate to Joseph R. Ingersoll, Esq. the resolution of Councils in relation to his resignation, made report accompanied with copies of the letters which were passed between Mr. Ingersoll and the committee, which were directed to be placed on the minutes.

Mr. Eyre offered the following resolution which was adopted.

Resolved, That a joint committee of three members from each Council be appointed to inquire into the best measures that can be taken to close the trust of the old Bank of the United States, and what prospect there is of obtaining possession of the house belonging to the city, under the will of the late S. Girard, Esq. which house is now in tenure of the late Cashier of Stephen Girard's Bank, without his paying any rent therefor.

Committee of Select Council, Messrs. Eyre, Worrell, and Jackeon,—Common Council concurred, and appointed Messrs. Chandler, Schott, and Robbins.

The resolution from Common Council, directing the City Solicitor to give his opinion in relation to the right of Councils to erect any other building than a market house, in High street, was taken up and adopted.

#### COMMON COUNCIL.

Mr. Gilder presented a memorial remonstrating against appropriating Rittenhouse Square as a military parade ground, and praying that the same may be planted with trees, and regularly laid out. Referred to committee on public squares.

Mr. Hutchinson presented a petition praying for the regulation of Walnut street, between Beach street and the Schuylkill river. Referred to paving committee.

Mr. Toland presented a communication from Jacob S. Waln, asking for an abatement of city taxes on the property Nos. 35, 36, and 37, South Wharves, recently destroyed by fire, and stating that the County Commissioners have taken off one-third of their assessments for the present year. Referred to the finance committee.

Mr. Gilder presented a memorial remonstrating against connecting two fire engine houses, with the Market house about to be erected in Market street, west of Broad. Referred to committee on markets.

Mr. Gilder, from the paving committee, made report in favor of paving Adelphi street, repaving Chestnut street from Sixth to Seventh, and repaving Tenth street between Walnut and Chestnut, which was adopted. Select Council concurred.

Mr. Gilder, in his place, submitted an ordinance for regulating Dock street near the Exchange, and Bank alley and Lodge alley, according to a plan submitted by Mr. Haines, City Surveyor, which was adopted.—Select Council concurred.

Mr. Chandler, from the joint special committee, on the petition of Joseph Rapin and Samuel Hufly, made the annexed report, which was adopted, and concurred in by Select Council.

The committee to whom was referred the petitions of Joseph Rapin and Samuel Hufly, beg leave to report:

That they have attended to the business assigned to them, in which they have examined the documents accompanying the petition, and have consulted with the Solicitor, and obtained the opinion of other legal gentlemen, and they are satisfied that all which is set forth in the petition is strictly correct; they therefore respectfully offer the following resolution:

Whereas, Peter Gaudichaud, on the 1st day of July, 1823, conveyed in mortgage to Joseph Rapin and Catharine his wife, to cause a bond of that date conditioned for the payment in one year, of eleven hundred dollars with interest, a certain back lot and two houses, thereon erected, situate on the interior of the square between High and Chestnut, and Delaware Third and Fourth street, bounded on the west by lots fronting on Franklin court, and on the south by back ends of lots fronting on Chestnut street, extending from east to west, seventeen feet six inches, and from north to south, eighty-five feet or thereabouts, and the said Peter

Gaudichaud and Josephine his wife, afterwards on the 18th day of August, 1830, conveyed the same premises to Stephen Girard, since deceased, by whose will the same were devised to, and on his death became and were vested in the Mayor, Alderman and citizens of Philadelphia; and whereas, the said mortgage to Joseph Rapin and wife, was not recorded until after the said mortgaged premises had been conveyed as aforesaid, to the said Stephen Girard, whereupon doubts have since arisen, whether or not, the premises are now subject to the operation of the said mortgage. For removal whereof, and for as much as it hath been made to appear, that it was not purposely or designedly omitted to record the said mortgage, and that no injustice was thereby intended, nor hath any person been thereby injured. Therefore

Resolved, That the said mortgage shall be deemed and taken to have the same effect and operation upon the estate of the Mayor, Alderman and citizens of Philadelphia, devised as aforesaid, as if the same had been recorded in the proper office before the conveyance of the mortgaged premises to Stephen Girard as aforesaid, and that in any legal proceeding had or to be had thereon, that counsel of the Mayor, Alderman and citizens of Philadelphia, be and they are hereby instructed to permit and suffer the same to have such operations and effect accordingly; so far only however as the said Mayor, Alderman and citizens of Philadelphia, are or may be concerned therein, and saving the rights of all and every other person and persons whomsoever.

Mr. Wright from the committee of accounts, made report in relation to the accounts of the Managers of Will's Hospital, from which it appears that the amount of money drawn by the Managers from the City Treasurer, up to the 31st August, 1834, is

	\$3,200 00
Amount paid by them for house expenses	\$798 56
“ “ Med. Depart.	161 79
“ “ Incidentals	147 93
“ “ Furniture	1,485 50
“ “ Real Estate	496 89
	3,090 69
Balance	\$109 31

From the New York American.

#### SHIP CANAL FROM OSWEGO TO THE HUDSON.

Our columns furnish the report of a committee of the Chamber of Commerce, made some time ago, in relation to this magnificent project, and to the interest which this city in particular, has in its accomplishment. No order has as yet been taken by the Chamber on the matter—meanwhile we ask attention to the statements and reasoning of the report, and have only space to add here, that a Convention is to assemble at Utica on the 11th inst. of delegates from the various counties, and from this city, more immediately interested in such an improvement.

Report of the Committee of the Chamber of Commerce, upon the Letter of “the Corresponding Committee of the Citizens of the County of Oswego.”

The Letter and Documents which were referred to us, indicate two projects of great importance to the nation at large, and especially interesting to the people of this state; the first proposes the construction of a Ship Canal around Niagara Falls, by means of which a communication will be effected between Lake Ontario and the upper Lakes. Vessels navigating Lake Erie and Lake Ontario, can now approach within eight miles of each other, and the proposed work would not, probably, much exceed that length. We have no calculation of its cost, except an incidental assertion of the

committee of the citizens of Oneida county, that a Canal, of sufficient capacity, to meet all the probable wants of our inland Commerce, can be completed for less than two millions of dollars: but, if the opinion of its importance which those gentlemen have expressed be correct, the question of expense is unworthy of the consideration of the Government of the United States, under whose superintendence it should be executed.—We will briefly state some of the reasons which have been urged, why this should be a National work.

1. The large number of states whose resources would be thereby developed, and their productions borne to a market with greater economy of time and money.—New York, Pennsylvania, Ohio, Indiana, Illinois, and Michigan Territory, are all directly interested, being bounded in part by the chain of Lakes on our northern frontiers; Kentucky and western Virginia have an indirect interest in the project, through their communication with Lake Erie, by means of the Erie and Ohio canal; and states more remote, by their artificial works, and the means of communication which nature has provided, would largely participate in that increase of facilities, and advancement of prosperity, which would result from the completion of this magnificent enterprise.

2. The chain of Lakes furnishes the natural and expeditious mode of communication with the Indians of the northwest. The removal of the chief impediment which obstructs their navigation, would enable the Government to give greater efficiency to its paternal zeal in favor of this unhappy race, and bringing them nearer to the blessings of civilization and Christianity, changing them from cruel foes or capricious friends into industrious and useful neighbors.

3. The inestimable importance of our having the command of the Lakes in the event of our being again involved in a war. If this work were constructed, all the munitions of war could be conveyed with so much ease and rapidity, that any point threatened with attack could be strengthened with little delay, and a single fleet would form the cheap and efficacious defence of our most extended and most valuable line of frontier.

4. The rapidity with which the industry and enterprise of the people of Canada, sustained by the rich rewards of a fertile soil, and encouraged by the munificent policy of their Government, is raising up a dangerous rival in our immediate neighborhood; dangerous in peace, from the numerous temptations and inducements which she offers to many of the most productive regions in our country, to seek with her a market for the sale of their own products, and the purchase of foreign commodities; and in war, from her numerical force, increasing with wonderful rapidity, and from the position which she occupies in relation to us, a position which she is continually strengthening. From the documents accompanying the letter referred to us, it appears that the emigration from the British Isles to the Canadas, averages 50,000 annually; that, in addition to the Rideau and Welland canals, several schemes of extensive intercommunication have been commenced; that the soil in general, is extremely fertile; that of the thirty steamboats which last year navigated Ontario and the St. Lawrence, only three belonged to ports on the American side; and, to use the language of a recent memorial to Congress, "that, during the last five years, it has grown, in the resources of population and wealth, in agricultural improvements, commercial enterprise and industry, beyond what is known to have been accomplished within the same period in the most flourishing parts of our own favored country.

These considerations enforce the necessity of our acting with a liberal zeal, to counterbalance the exertions of so sagacious and enterprising a rival; and if the Government of the United States should refuse to interfere, the project by which we shall at once be

placed upon an equality with our competitor, and perhaps secure a superiority, is amply within the resources of our own state. When effected, the result will be that, instead of seeing the products of the most fertile portion of our northern and northwestern territory, carried to Montreal, we shall have a large portion of our Canadian neighbors resorting to the market of New York, through the channel, the constructing of which is the second project suggested in the papers now under consideration.

This proposes to provide the means of passing vessels of from 100 to 200 tons burthen, from Lake Ontario to the Hudson, by improving the navigation of the Oswego river and Oneida outlet, making a navigable communication from the head of Oneida Lake to the Mohawk, and removing or overcoming the impediments which that river offers. The individuals recommending this measure, are men of practical wisdom, who have long had the subject under consideration; and they confidently express the opinion, that a steamboat communication, by this route, between Ontario and the Hudson, would not cost more than two millions of dollars. An enlightened policy would induce our state to execute the work at ten times that cost, if we can credit the prophecy of Judge Wright, that "the completion of the Welland canal, and of the canal around the Rapids of the St. Lawrence, will secure to the Canadas one half of the trade of Ohio, Indiana, Illinois, and Michigan."

We have unquestionably derived great advantages from the Erie canal, and we owe a large debt of gratitude to that illustrious man whose decision and energy created it; but it cannot be denied, that it has nearly reached the maximum of its utility, and that the resources of our industrious and enterprising population require additional means for their full development.—Many bulky and heavy articles are excluded from the canal by the rates of toll, and the number of these will continually enlarge, as the products of our skill and labor are increased. The great number of counties lying along our southern line are threatened with an entire exclusion, and are sometimes compelled to resort to the Baltimore market, over the Rapids and intricacies of the Susquehanna, instead of seeking that which habit and inclination would indicate. If a steam navigation were open from the city of New York to Oswego, the numerous rivers and lakes which run through the central and southwestern parts of our state, towards Ontario, would supply, with easy additions from art, the means of junction with that Lake, which, upon the completion of these two schemes, would be the termination of an inland sea, having a greater circumference than the Euxine. The existing canals, together with a rail road through the southern tier of counties, from the Hudson to Lake Erie, would bring all parts of the state, which are not immediately within the scope of the proposed improvements, into an expeditious and economical communication with the Atlantic. We shall then have done all that a liberal policy can suggest, to develop and improve the blessings of a bountiful Providence.

The limits within which we deem it expedient to confine this report, do not permit our entering into a detail of arguments and illustrations to support the opinions which we have expressed, nor do we consider ourselves called upon to recommend any immediate action by the *Chamber of Commerce*; but, inasmuch as every question of internal improvements within our state is deeply interesting to all classes of individuals in our city, and in a particular degree to our merchants, we respectfully recommend the adoption of the following resolutions.

Resolved, That a standing committee be appointed to originate, receive and answer communications of our fellow citizens throughout the state, upon the subject of Internal Improvements.

Resolved, That the Secretary be requested to assure the Corresponding committee of the citizens of the

county of Owego, that this Chamber appreciates the public spirit which animates them,—concurs in opinion with them respecting the importance of the projects which they recommend,—and will cheerfully co-operate in attempts to conduct them to an early completion.

ISAAC S. HONE,  
JOHN S. CRARY,  
AUG. WYNKOOP.

June 2, 1834.

From the 'Columbia Spy.

#### INTERNAL IMPROVEMENT.

Great efforts are now being made by New York, Pennsylvania, and Maryland, each to attract to its own mart, and open a passage through its own territory for the whole trade of the "Great West." The citizens of the first named state, finding that the Erie canal will soon be deprived of the largest part of that lucrative business which has rendered it a most valuable source of income, through the greater facilities afforded by the Pennsylvania canals now nearly completed, which open so much earlier, and close so much later in the season, and reach market in a far shorter passage, are now agitating the project of a thoroughfare for vessels from the Hudson to the lakes, which, by removing the necessity for transhipment, and by the greater speed which will be attained, will still draw the current of commerce through its midst. In our own state, a plan has been entertained of making the Susquehanna navigable for steamboats; and thus opening a communication with the lakes, which will not only answer the purposes of trade, but afford a safe channel for the conveyance of arms and stores by government in time of war. Baltimore already feels the destructive effects of our improvements upon her interests—the products of northern, middle and western Pennsylvania which have been hitherto borne into her lap, are now seeking a change of markets in the metropolis of their own state—and the enterprising people of the city of monuments, not content with the rail way stretching thence to the valley of the Mississippi, are warmly calling for an extension of our canals down to tide water.

Of these schemes we have been silent spectators—not holding ourselves competent to judge of the benefits or advantages which may accrue from them, we were satisfied to leave the discussion to more competent hands—and knowing how apt people, when they have caught a pet theory or project, are to build air-castles, and to be carried away with flighty fancies, we have not judged it necessary to read all that has been written on the subject. We are satisfied with things as they now stand—we want Pennsylvania to have a fair chance to gather all the advantage from her improvements that they can produce; and are utterly opposed to any new works that will tend to the injury of her income and future prospects. We have one view of this matter, which we have not seen mentioned; if it be true, as the Pennsylvania Intelligencer suggests, that our canals can never afford an avenue to market for the coal of the upper country, on account of the expense of tolls and transportation, how can the business be improved upon them by the introduction of steam navigation on the Susquehanna? Certainly the latter would enter into competition with the former, and, if its advantages are such as they are described to be by that paper, it would render them completely useless and unproductive. There seems to be a difference of opinion between the Intelligencer and Baltimore American, whose editors say, only give us a canal down to tide from Columbia, and your coal and other products will have a choice of markets, plainly insinuating that the cost of conveyance will not be too great to prevent a profitable trade. It is evident to us, that the judgment of the Harrisburg writer is somewhat

dazzled by the splendour and magnificence of his favourite plan, while the canny Baltimoreans are wide awake to take advantage of every thing which may promise to make the rich vallies, mines and forests of Pennsylvania once more tributary to the wealth and commerce of their city.

#### FARRANDSVILLE.

This place is situated near the head of the improvements on the West Branch of the Susquehanna, and at the nearest point from the Atlantic to the great Bituminous Coal mines of Pennsylvania. We have lately made a visit there and were really surprised and gratified at the movements of enterprise which we saw. There are about 400 inhabitants, and arrangements are making for 200 more which the works require. There is a numerous body of selected mechanics which for variety, skill and experience, we presume, are not equalled in Pennsylvania, unless in the cities of Philadelphia or Pittsburg. The business now in operation is mining of coal, iron, fire clay, &c. coking, making and burning bricks with coal, constructing a rail road, and the inclined plane of about 2000 feet in length, which is the longest in the United States—several dams, mills for sawing boards and shingles, ploughing and groving, extensive nail works, rolling mills, and 7 or 8 furnaces, besides turning engines—the manufacture of cars, &c. &c. The mill work and machinery are of the most complete and expensive kind. We were told there was not a man, woman or child over ten years of age, who were not engaged in some productive employment, and *not a drop of whisky is sold or consumed by any of the inhabitants.* The sales of iron to this little place from Centre county, we think is now more than to the city of Philadelphia. The exports from works now preparing, will next year be more than from the whole county besides.

The people of the West Branch have at all times represented to the legislature that their coal resources were sufficient to compensate the state in vestments. The fact is now settled beyond a question, and still the improvements are not completed so as to offer the necessary facilities for sending coal down by the canal.

Two years and a half ago, this spot was only accessible by a horse path when the river was low. William P. Farrand, Esq. the agent and superintendent, commenced his operations by breaking a path into the mountain through a snow three feet in depth. At that time he could not procure a night's lodging or a meal of victuals without going to a log cabin two miles and a half back and forward. We were informed, that on one occasion, he was shut in by ice, and provisions were sent to him—he passed many nights in the hills, both in the snow and the rain, without any kind of shelter, and has been more than once roused by screams of a panther. Thanks be to him, he at last succeeded in finding coal of various kinds, iron, fire clay, fine clay for potteries, grindstones, &c. He has also succeeded in making cokes, both by ovens and coke pits. Already has he burnt four kilns of bricks with coal, which we believe are the first burned with this kind of fuel in the United States. Mr. Farrand has settled the character and use of our fire clay by experiments and the mode of manufacturing it. He has shown that our rivers may be navigated by steam, if necessary—and last of all, he has exhausted his own health, and we fear will be obliged to leave the country. We think, however, in justice to Mr. Farrand, we must say, and we can do so, from the pretty good knowledge of the fact, that he leaves this country without having speculated to the amount of one dollar on his own account.

A single visit to Farrandsville will demonstrate all and more than we have set forth—to Mr. Farrand and those concerned in his unwaried enterprise, the inhabitants of Lycoming and Centre counties, as well as many other

portions of Pennsylvania, besides the commonwealth, will be greatly benefited.

A new town called "*Lock Haven*," which promises to be of some importance, has also sprung up, within six miles of Farrandville—the result of the perseverance with which the enterprise of Mr. Farrand was continued. *Here*, many fine building lots may yet be procured. The town is located on the basin of the Bald Eagle dam, where the cross-cut has its connection, and where we expect to see the seat of justice of a new county before five years.—*Milltonian*.

From the Wyoming Herald.

#### CANALS AND RAIL ROADS.

Mr. Miner—

I brought the subject of the contemplated rail road from Wilkes-Barre to the Lehigh, again into public view, by a brief article, last week. Its importance to us does not seem to be duly regarded. Look at the great improvements with which it leads to a connection. The *Morris Canal* from the tide waters of New York bay to Easton has this season transported, besides other things, about 20,000 tons of coal, and will probably take 10 or 12,000 tons more; showing that it is a real, practical, business canal; and that the scheme of raising boats by inclined planes, which many feared would not answer, works very well. It is confidently said that the Company mean the coming season to extend their works from Newark to Jersey City, and make it throughout its whole extent a 30 ton boat canal. Passing through an extensive and thriving portion of New Jersey—leading from Easton to Newark, and New York, it will be seen at a glance, by every clear minded man, that it is our interest to open a way from Wilkes Barre to this work if we can and as early as we can.

Again—The *Delaware Division* of the Pennsylvania Canal, has this season suffered no breach—no interruption—no impediment; but is in full, complete, and successful operation; showing notwithstanding the apprehensions which, for a time, existed, that it is a permanent and sound job of work. Thus from Easton to Philadelphia the navigation is certain and easy: all we could desire.

In the third place, and highly important to all this upper country, as well as to that below, the *Delaware and Raritan Canal* is so far finished as to be navigable. A paper before me tells of sloops loaded passing through, delivering goods from city to city in 48 hours time: and the feeder, made navigable from Blacks' Eddy, is nearly completed, which opens to boats from Easton a choice, first—through the Morris Canal to New York; second—through the Delaware Canal to Philadelphia; or third, through the feeder and Raritan Canal to New York.—All these great works point up towards us and invite our enterprise and trade.

And how near do they come to us? I answer, what the intelligent public well know, that the *Lehigh Company's Canal*, which unites with the works named, comes up from Easton to Mauch Chunk 46½ miles; and that it is one of the best constructed and noblest pieces of workmanship the present century, distinguished for improvement, has seen accomplished. This brings the navigation within about 30 miles, on a straight line from Wilkes-Barre.

One very important fact I am about to mention which will be read, I think, with interest and pleasure. A boat from Mauch Chunk, loaded with about 50 tons of Coal, passed all the way to the wharves at the city of New York by the Raritan canal, *without transshipment*! With such easy access to the two chief cities of the nation, except the interruptions that exist between this place and Mauch Chunk, is it not a reproach upon our enterprise, almost upon our patriotism, that we do not rise up in sufficient strength to overcome these obstacles? It is a shame! In truth, fellow citizens, we ought, one and all, to put our shoulders to the wheel,

call on Hercules, and cause the rail way to Wright's Creek on the Lehigh, and the canal from thence to Mauch Chunk, to be made.

This is, still, but introductory. In my next, I shall give you some very interesting facts and calculations.

A CITIZEN.

Sept. 22, 1834.

THE PENNSYLVANIA CANAL.—The Louisville Advertiser, of the 11th instant, has a long article upon the probable operation of this great improvement upon the cities of Cincinnati and Louisville, and upon the country east of those places. That this line of communication is destined to exercise a powerful influence upon the trade of the whole west, there can be no doubt.—The operations of the present season, when the rail road over the mountain was incomplete, and when there was but little competition, being but two lines of transportation, gives but a slight and imperfect conception of the effect which will be produced, when the rail road is completed, and the competition full and spirited.

A third line—the *Pennsylvania and Ohio*—has recently been put in operation, and a fourth company is, we are told, now forming. During the ensuing season we hope to see a very active business carried on through this great improvement.

Some further improvement of the Ohio from Pittsburgh to Portsmouth, or at least to Wheeling, seems necessary, or certainly very desirable, to ensure the speedy and cheap transportation of merchandize, and produce, during the lowest stage of the river. But pre-eminent in importance at this time is the completion at an early day, of the connection of the Pennsylvania and Ohio canals by the Mahoning route. The progress which our improvements have already made, has excited much alarm in New York, and the enterprise and spirit of her citizens are already at work to devise still more advantageous routes of competition. Give us, however, the Mahoning canal, and we may defy all attempts to compete with us through the ice bound end of Lake Erie.—*Pittsburg Gazette*.

#### THE PENNSYLVANIA CANAL.

The Louisville Advertiser, of the 11th inst., has the following remarks on the probable effect of this great improvement upon Louisville, Cincinnati, and the country east of those cities.

"Now let us inquire what will be the effects of this Pennsylvania improvement on Louisville, Cincinnati—on what we may term the whole valley of the Ohio? It is estimated that nearly a thousand hogsheads of tobacco have been shipped this year from Kentucky, Ohio, and Western Virginia, up the river, and by the Pennsylvania canal and rail road to Philadelphia. Large shipments of bacon, pork, lard, flour, &c. have taken the same direction—and the calculation is, that most of the surplus products of the country lying east of Louisville, will hereafter be shipped eastward—will be transported up the rivers, and through the Pennsylvania and Ohio canals to Philadelphia and New York. By the same route, supplies of groceries will be received from the Atlantic cities, and thus a large portion of the grocery business hitherto done in Louisville and Cincinnati, will be transacted in the Atlantic cities.

Within the last few months, considerable importations of coffee, from Philadelphia, were made by a house in this city, because the article was obtained on better terms than it could be procured at New Orleans. Sugars, teas, and groceries of every description, are also *flowing over the mountains* into the west. In a word, Philadelphia, by the operation of "the Pennsylvania canal and rail road," bids fair to engross the dry goods business of "the West," and to supply the whole country, on the Ohio, east of Louisville, with groceries.

Such a change in the imports and exports of a large district of country, which heretofore shipped its surplus products to New Orleans and received its supplies of groceries through Louisville, Cincinnati, &c. must be productive of important, if not serious results. To our minds the following inquiries are naturally suggested.

1. Will not the receiving and forwarding business, as well as the trade of Louisville, in produce, be seriously affected?

2. Will not our grocery trade be greatly diminished?

And, may not the increased facilities of shipping to the east, and procuring credit there, soon affect our wholesale business in dry goods?

In reply to the first of these inquiries, it may be stated that the forwarding and shipping business of this city must decline, if the produce of the eastern parts of Virginia and Pennsylvania, should be sent to Philadelphia and New York, instead of New Orleans. By drawing our products across the mountains, Philadelphia will necessarily bring an additional portion of the west directly within the sphere of her operations. In other terms, by her canal and rail road, she will command the country, on the Ohio, above Cincinnati. If, by overcoming natural obstacles, gaining time and diminishing the expenses of transportation, she can command the pork, lard, bacon, tobacco, hemp, and flour of the country east of Cincinnati, what can prevent Philadelphia from supplying the same district of country with groceries as well as dry goods? If the bulky products of the west can be more advantageously shipped, from Portsmouth, Ohio, or Maysville, Kentucky, to Philadelphia, than to New Orleans—it must follow that groceries can be brought from Philadelphia, to the points we have just named, on better terms than they can be imported from New Orleans. The second inquiry, then—“will not our grocery trade be greatly diminished?”—must be answered in the affirmative. A large portion of the wholesale business, hitherto transacted here, in groceries, has been with merchants residing east of us—in Pittsburg and other towns between that city and this. *That branch of trade is already rapidly declining, and must be entirely cut off,* should the Pennsylvania canal and rail road meet the anticipations of their projectors.

To the third inquiry, an affirmative answer must also be given. Should Philadelphia become a market for a large portion of the exports of the valley of the Ohio, merchants from the interior towns will not only barter for such articles as may be saleable in the east, but will ship them on their own account; and, if their profits on their exports will defray their expenses, they will visit Philadelphia and New York, form acquaintances and connections in business, and import their own dry goods, as well as their groceries.

Such, it appears to us, are the prospects presented to this city, by the completion of the Pennsylvania canal and rail road, and the Ohio Canals. They are by no means flattering; on the contrary, they are well calculated to create alarm; but we should not, on that account, shut our eyes to our real condition. As an intelligent people, we should calmly survey our prospects, and prepare to adopt measures to counteract the effects of the enterprise of Pennsylvania, to the extent to which that enterprise may be calculated to diminish our commerce or affect our interests.

From the Pittsburg Advocate.

Sept. 24, 1834.

The Pennsylvania canal is in fine condition, and goods arriving from Philadelphia in 11 to 13 days. The quantity of merchandize delivered here by canal, in the last thirty days has been equal to that of the most pressing business month of the spring. Our freighters and merchants have made suitable arrangements for the ne-

cessary supply of keel boats of light draft, to secure the shipment of goods to the west without the least delay, and we are assured that shipments were never made with greater despatch than at this moment. The average time of making the passage to Wheeling since the 1st August, has been less than *three* days, and in no instance, except one unfortunate case, has that time been exceeded more than a day, although upwards of seventy boats have been sent hence in that time.—Freights to Cincinnati, 62½ per 100 lbs., to Louisville 75. A respectable forwarding house at Wheeling quotes the present prices at the same rate, from that place. The Wheeling Times, without a blush, quotes the rates of freight as at 87½ per 100 lbs. from Pittsburg, while but 50 to 62½ is paid from Wheeling!

**CANAL.**—Our canal has not given that life to business, nor increased prosperity to that extent we anticipated; yet that it affords the cheapest and will be the best communication of heavy trade between this valley and Philadelphia, there can be no doubt. One of our merchants, Mr. Ziba Bennett, has just received, all the way by canal, from the city, ten or twelve tons of Goods, at a cost for transportation far less than by land carriage.—*Wyoming Herald.*

**RARE DIVERSION.**—Last week a party of our citizens, forming two sides, equally numbered, spent a day in hunting squirrels, &c.—each portion of the party ambitious to excel the other in the quantity of game taken. On counting up the spoils of war, they had killed 341 squirrels, besides many pheasants, partridges, wild pigeons, and other game.—*Id.*

**BEARS.**—Many bears have been killed within a few weeks past; in different parts of the county. We presume a scarcity of the food on which they live has driven them into the settlements, and made them more bold than usual.—*Id.*

**BEARS.**—The bears are migrating to the south, being starved out from the northern wilderness. A number have been seen in the north part of this county, and several have been shot. We understand that one man killed two in one day.

The Indiana (Pa.) Register says:—These animals have become so numerous of late, that, were they of a ferocious nature, we should be afraid to venture without the precincts of our domicils after dark. Several of them have been seen preambulating in the immediate vicinity of town, and it is fine amusement to our sportsmen in giving them chase. Numbers have already been captured in different parts of this county.

**BEAR.**—We understand that a large bear was killed in the vicinity of Beaver Meadows one day this week. These animals seem to show themselves quite frequently in the habitable parts of the country this season. One crossed the river and canal a little below this place a few days since, and was seen climbing the mountain. He however escaped the vigilance of Capt. Sherry and his dogs, which his bear-ship may count a pretty rare piece of good luck.

#### BRISTOL COLLEGE.

The following information respecting this institution was furnished us by a young man who was a short time a student therein. From the continually increasing interest which is manifested in every matter connected with the subject of education, and which pervades every class of society, we presume it will be acceptable to our readers.

His flourishing institution is advancing very rapidly. The trustees have contributed largely to defray the ex-

penses of building, in which they have been extensively engaged the past summer. The institution was originated to aid in educating young men for the Episcopal ministry, and it will surely in such a cause succeed.—There are now between eighty and ninety students belonging to the institution, and there have been seventy applicants denied admission, on account of want of room for their reception—but the next term they will be able to accommodate a large number of students.—As to the course of studies, there is as thorough a classical course as will be found in the United States. The terms are very low, being in the collegiate department about 100 dollars, every thing included except clothing and books; and in the academical department about 125 dollars. The fall term commences on the first Wednesday of October. There is no doubt but by the energy of the trustees, the cause in which it is engaged, and its advantages over other colleges, that it will in a short time become the “Alma Mater” of the middle states.

From the States Advocate.

#### INTERNAL IMPROVEMENT.

We have received the following communication and most cheerfully insert it in our columns: sensible that the project recommended by Mr. Karthaus is more practicable than the plan which gave rise to his suggestions.

KARTHAUS, CLEARFIELD CO. }  
September 6, 1834. }

Messrs. Tweed & Kelchner,

Gentlemen—By reading in the Advocate and Pennsylvania Intelligencer so much concerning a new project of Internal Improvement, in relation to a sloop and steamboat navigation from the Chesapeake Bay by the north east branch of the Susquehanna, to connect with the New York eastern and western canal, my attention has been attracted to the subject. And, as Henry K. Strong, Esq. as a corresponding agent, called upon me for information in relation thereto, I have, this day, sent him a statement of a project, far superior to any suggested hitherto; and indeed far superior to any plan of improvement yet carried into effect by state or individual enterprise. It remains surprising to me, when I reflect upon the march of talent and enterprise, in search of useful objects of improvement, that such a project should, so long have escaped the notice of so many intelligent and discerning men on the West Branch.

Not many years since, under the administration of John Q. Adams, a plan was suggested by Congress, for opening a direct communication between Washington and the western frontier by a national road, and Major Long an engineer in the service of the United States, was ordered to explore the country and report to the next session of Congress the best route for said road. The various routes suggested were accordingly explored, and full details of each made as directed, to Congress. Major Long reported and set forth in the strongest manner, that a rail road from Port Deposit, following the river and up the West Branch to Sinnemahoning and then by that stream up the Driftwood Branch to the summit, and then by Potatoe Creek to the Allegheny river and so on to Buffalo would effect a communication line of the first magnitude, and superior to any other in the United States. The whole distance requires no inclined plane, as there is no elevation of much importance to overcome.

The plan I suggest is to confine the improvement at present, to a rail road from the head of the canal navigation at Dunnstown, by the route surveyed by Major Long, to the Northwestern lakes. It appears by an estimate in the Daily Pittsburg Gazette, that the distance from Rochester to Olean point is 163 miles. From Olean to Dunnstown, by the Driftwood Branch, does not exceed 120 miles, making the whole distance be-

tween these extremities 223 miles. In this distance there is no greater rise or fall in the country than is indicated by the current of the streams which are in no place rapid. The sources of the Driftwood Branch of Sinnemahoning and Potatoe Creek are on a level surface between the two waters, and close together. The one empties into the Susquehanna, the other into the Allegheny.

Intelligent people of every location must appreciate the great advantages of such a communication between the Pennsylvania canal and the trade of the lakes. And more especially would merchants from the western states that trade in Philadelphia, and those of the north-western parts of Pennsylvania and New York, soon learn its advantages and give it the preference over every other route for transporting produce to the city and merchandise to the west in return. Its excellence over the route by the north-west branch and Seneca and Cayuga Lakes, and York canal would be this:—The York canal between Buffalo and those interior Lakes connected with the north west branch route would remain closed by ice some weeks in the spring after the Pennsylvania canal would be navigable—consequently, the large amount of produce which would be collected at Buffalo and Rochester during the winter would pass by the west branch rail road and canal to Philadelphia before the other route would open; and the merchandize of merchants of the western states along the great chain of Lakes, and even those of New York and Canada, would prefer, in the spring, the first practicable route for conveying their goods from New York and Philadelphia to Buffalo.

Again, the western end of New York, Canada and the western states bordering on the Lakes, would be supplied with coal and iron from the west branch regions, as it is well known that those requisite and indispensable articles abound in greater quantities, and better qualities here than any where else in the Union. I mean the bituminous coal of Lycoming and Clearfield counties, in connection with the iron of Centre. To leave the other advantages out of sight, the ease with which the road could be made, either for locomotive or horse power—the shortness of it, and the directness of the route to the object would, or ought if disinterestedly viewed, to give it the preference over the other project. The nation would have the best possible communication to the frontier for transporting military stores, &c. and the Pennsylvania canal would not only be connected with a great and profitable trade, but also of our coal and iron which of itself would richly repay the nation; as well as amply compensate the inventor.

I hope, Messrs Editors, you will have sufficient patriotism to state these facts in your paper and I will not venture to give my reasons why this route has been so long neglected—whether from puerility or ignorance no matter which, I put sufficient reliance on your knowledge of the facts to believe that you will think it worth attention.

The distance from the mouth of Sinnemahoning to Karthaus is 18 miles, which is intentionally not embraced in my project. But I cannot avoid one expression in regard to it, i. e. that this district has never been considered as of much importance, but rather abused and rejected as a wilderness by the Representatives of Lycoming and Centre counties. A navigation to Bellefonte alone has been brought forward for the use of Centre county; and the Lycoming Coal Company does not wish to have the improvement carried farther than comports with their own interest.

To conclude my letter, I remark that a steamboat and sloop navigation to Owego and the lakes would answer a good purpose for the Plaster and Salt trade. But the shortness of the distance by the Sinnemahoning to Olean Point and its direct communication with the Susquehanna and the lakes, appears to me of much more importance. Look at the map of Pennsylvania and New York, it will show the difference at once.

If the Bituminous coal trade from this section comes into play the Pennsylvania canal will profit by it.—Quite different results will be produced if the locks can admit all the trade through them—I believe the profit of the whole canal system would be doubled by the proposed rail road. A double tract of rail road will afford every facility for passing and re-passing, winter and summer, for locomotive steam power; and where is the country better supplied with materials to carry on such a business. And to effect such an improvement as that between Northumberland and the lakes by the Sinnemahoning? None can be found.

PETER ARN KARTHAUS.

## MEMOIRS OF THE PENNSYLVANIA HISTORICAL SOCIETY.

The following letters are extracted from the last vol. of the Transactions of the Pennsylvania Historical Society.

TO ALGERNON SIDNEY.

13th October, 1681.

There are many things make a man's life uneasy in the world, which are great abates to the pleasure of living; but scarcely one equal to that of the unkindness or injustice of friends.

I have been ask'd by several, since I came last to town, if Colonel Sidney and I were fallen out, and when I deny'd it, and laugh'd at it; they told me I was mistaken, and to convince me, stated that he had used me very ill to several persons, if not companys; saying, I had a good country, but the basest laws in the world, not to be endured or lived under, and that the Turk was not more absolute than I. This made me remember the discourse we had together at my house, about my drawing constitutions not as proposals but as if fix'd to the hand. And that as my act, to which the rest were to comply if they would be concerned with me. But withall, I could not but call to mind that the objections were presently complied with, both by my verbal denyall of all such constructions as the words might bear as if they were imposed and not yet free for debate. And, also, that I took my pen, and immediately altered the termes, so as they corresponded, (and truly, I thought more properly,) with thy objection and sense. Upon this thou didst draw a draught as to the frame of government, gave it me to read, and we discours'd it with a considerable argument; it was afterwards call'd for back by thee to finish and polish, and I suspended proceeding in the business of the government ever since, (that being to be done after other matters,) instead of any further conference about it.

I meet with this sort of language in the months of several, I shall not yet believe it; 'twere not well in me to an enemy, less so to a friend; but if it be true, I shall be sorry we ever were so well acquainted, or that I have given so much occasion to them that hate us, to laugh at me for more true friendship and steady kindness than I have been guilty of, to any man I know living. It becomes not my pretences to the things of another life to be much in paine about the uncertainties of this; but be it as it will, I am yet worth a line; and I would pray one of the truth of the fact for the inquiry it hath done me already, is nothing to the trouble it will give me if I have deserved it and I if have not, of losing a friend upon a mistake; not that I meanly creep for a friendship that is deny'd me; I am unfit for it then. I can be but where I was before, not less in myself nor my own peace, which a steady virtue will make a sufficient comfort and sanctuary.

Thy real friend, WILLIAM PENN.

*Address to King James II. on his Accession to the Crown.*

GREAT KING,

SUFFER in the crowd, a most dutifull and affection-

ate subject to condole the loss of a wise and gracious brother, and to congratulate the fair accession to the Imperial Crown, in which the Providence of God hath so conspicuously appear'd, that it hath added a divine to an unquestionable natural right; in the rise of which I do with an humble heart beseech Almighty God to give the king the Wisdome of Solomon, and the Mercys of David, that his administration may tend to Gods glory, the general good and his own immortal honour.

\* Pardon me if I say no prince ere fell into more unwonted circumstances, nor yet had it more in his power to be always wellcome and renowned; but that being a subject too big for this place.\* I have only to pray leave to hope that the kings wonted grace and favour will receive no abate from his greater pow'r to show it to

His most faithfull, loveing and obedient subject,

WILLIAM PENN.

7th February, 1684.

*Letter from William Penn, to Friends in Pennsylvania.*

BRISTOL, the 24th of 9th month, 1694.

Dear Friends and Brethren,

My antient love without reserve salutes and embraces you in the sense of that which has been the root of our fellowship, and of all God's people, since the world began, in which the Lord preserve us to the end.

By this, you will understand that by the good Providence of God, I am restored to my former administration of government which, I hope, will be some relief and comfort to you that have been exercised by the late interruption upon us. That things are not just now put into that posture as you may reasonably desire, you must not take amiss, for neither will the straitness of times nor the circumstances we are under to the lords of the plantation, permit another method at this time. And as soon as I can make my way to that which is as much my inclination as yours, (and which, I hope to do in a short time,) depend upon it, I shall do my utmost to make you entirely easy. Accept this part of the goodness of God and wait for the rest.

We must creep where we cannot go, and it is as necessary for us in the things of this life to be wise, as to be innocent. A word to the wise is enough. My return will, I hope, put an end to all our civil grievances, which, at least, I long for, not for any word by advantage, but to discharge a conscience to God and to you, and, I hope, that shall singly be the mark and rule of the remainder of my life, both in this and all other things that may attend it.

You know, I believe as well as I, what has been a main obstacle, and is still, of which \*S. J. can be more particular to whom I have opened myself, that he may do so to you, and whose integrity, I think, ought with reason to be unquestionable to us both.

I cannot tell you here through what difficulties we are come where we are, and I hope you will be sensible of it, and from thence satisfied if not pleased. As to the present condition of the province pray be careful that the charter be strictly observed, and all vice and impiety diligently suppressed. I have named two assistants, that, I hope, will please you, to whom I shall write, by this opportunity, to consult you in all the advice and consent they shall give from time to time to my cousin Markham in the administration of government.

\* \* The lines between the stars are marked out in the original rough draught.

\* I suppose, Samuel Jennings. This paper is taken not from the original, but from a fair copy endorsed by William Penn. This accounts for its not having his name, or his usual affectionate conclusion.

I had written largely to you by George Heathcott's brigantien, but she was, unhappily, taken by the French, and my letters with the Queen's letter, with the broad seal of revocation of Colonel Fletcher's commission were carried into France.

I just now received letters from London, that informed me that the fleet will not sail until the time called Christmas—so that, I hope, to enlarge hereafter either in this or another letter. \* \* \*

*Copy of the Memorial laid by William Penn before the lords about Colonel Quarry.*

A brief Memorial of several things complained of, against Colonel Quarry, more largely express in the paquet laid before you—and my humble request thereupon.

1. That he has aggravated divers things against us in reference to the laws of trade and navigation; either where the attorney general and judges of England have given their judgments for us, or where we, for the encouragement of trade, and preventing of ruin to the parties, have forebore an immediate confiscation of ships, merely, upon clearings or registry by them undesignedly left behind, they giving sufficient security for ships and cargoes, with all demands and damages.

2. That when, upon his complaint of the want of a militia, and that the people were tried for their lives without oaths, Colonel Hamilton, to accommodate that matter, gave commission for raising a militia, and to such judges as could take oaths to try by juries, that were of the same sentiments. He and his adherents as strenuously discouraged what they had before complained of, lest that occasion they took against the government should thereby be removed.

3. That he has manifestly endeavoured to disaffect the lower counties with the upper, though they first desired the union, to the great disorder of the public, and unspeakable prejudices to me and my family—since they generally refuse to pay their quit-rents, though some are very many years in arrear:—who no longer since than '99 were the people that, in an address to the late King William, vindicated the province against Colonel Quarry's suggestions of illegal trade, among whom, (if any,) it must have laid, they being the great tobacco planters under that government.—But, I must own that when I prest the law we made, at that time, against illegal trade, so much aggravated by that gentleman, they began to souse to me, which was heightened by him, saying; "I was too strait to trade," for he even told me so himself on that occasion; though there was no other way to prevent what he had complained of, in so wide a bay, and so full of creeks, as that of Delaware.

4. Nor is this enough to content him and his secret agent, Moer, who in good measure had his bread from me, and that at the instance of Colonel Quarry, too; but not having the patience of staying till he received an account how matters went between this broad and myself, relating to the government by way of anticipation, at the head of his packed vestry complimented the Lord Cornbury with an address, wherein they hope by their application, they shall prevail with the Queen to extend the limits, (as the phrase is,) of his government over them, that they may enjoy the same blessings with others under his authority. A passage one would not expect from those that pretend to be lights and examples of obedience and submission to government.

These things I complain of, and hope you think I ought to do so. Redress is in your power, and, therefore, I beseech you effectually to apply it, be it for reprehension or advice, or both, that we may no longer be troubled with their little spite to serve private turns.

I am with all sincerity,

Your respectful friend,

WILLIAM PENN.

London, 15th of 1st month, (March,) 1703.

*William Penn to the Duke of Marlborough.*

Bristol, 22d of 3rd month, (May,) 1709.

Noble Friend,

I hope my last came time enough for the peace, especially since all our news made us believe there would be none this year, but to day's prints, speaking so very favourably of it, I send this in reference to our northern bounds in America.

The English Empire on the continent lies upon the south side, and we claim to the North Sea of Hudson's Bay; but I should be glad if our north bounds might be expressed and allowed to the south side of St. Lawrence's River that feeds Canada eastward, and comes from the lakes westward; which will make a glorious country, and from those lakes due west to the river Mississippi, and thence that river to the extreme bounds of the continent westward; whereby we may secure one thousand miles of that river down to the Bay of Mexico, and that the French demolish, or, at least, quit all their settlements within the bounds aforesaid.

The Duke may find at any noted stationers in Holland or Flanders, the map of North America, and see how St. Lawrence River runs east and west through the length of the continent, and that of Mississippi which lies two thousand miles cross the continent north and south.

Without such a settlement of our American bounds, we shall be in hazard of being dangerously surprised at one time or other, by the French and their indians; especially if they send but twelve ships of war to attack us by sea, I humbly refer it to the Dukes English, Heart and Head, to secure to his country so great a one, and of that value on many accounts, (and no more, I think, than we have a real claim to.)

Forgive the roughness of this, a general assembly of our people, from the country, about this city, so fills me with company and business, that I cannot send it in a better dress—God speed the plow.—Allow me thy good opinion, and believe me to be with great respect,

Thy obliged faithful friend,

WILLIAM PENN.

**STEAM ENGINE.**

The steam engine at the head of the inclined plane on the rail-way near this place, is now finished, and the ropes and other fixtures are in order; so that for some days past, cars have been drawn up and let down by the machinery. It works very well, and not the slightest accident has occurred. —*Columbia Spy.*

**THE REGISTER.**

PHILADELPHIA, OCTOBER 4, 1834.

Mr. Duponceau having politely complied with our special request, for a copy of his excellent oration delivered at the request of the citizens, on occasion of the death of La Fayette—we have the pleasure to present it in the present number.

Some few cases of Cholera have occurred in the city. It has not assumed an epidemic character. Little or no alarm has been created—but hopes are entertained, that from the lateness of the season, we shall be very partially visited with this dreadful malady. Pittsburg it appears is now free from it—and so is the village of Holmesburg, and the neighborhood of Chester, where there were several deaths.

Printed every Saturday morning, by Wm. F. Geddes, at No. 9 Library street.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

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## INGERSOLL'S ADDRESS AT THE OPENING OF THE WILLS HOSPITAL.

An Address delivered at the opening the Wills Hospital for the Indigent Blind and Lame, March 3, 1834, by JOSEPH R. INGERSOLL.

Undertakings of a public character are, for the most part, commenced with an explanation of their objects, and the occasion and motives for establishing them.—Placed, as they are, before the public eye, and relying, as they often do, upon public patronage for their active exercise, the whole community has a right to be familiarly acquainted with them. Accordingly, the earliest opportunity is taken by those to whom the care of this institution is confided, to conform to a practice so entirely unexceptionable. They desire to make known the means by which they are enabled to contribute to the general mass of practical benevolence; to disclose the character and extent of their contribution—its present limits and its future hopes; to exhibit the genuine claims of those whom it is their especial object to protect and comfort, and to show how much they merit, and how much they may be relieved; to bespeak the sympathies of a generous community, and to prove that the institution itself deserves to be identified with their best feelings, as it is connected with some of their truest interests.

In nothing is the advancement of the age more distinctly marked than in acts of genuine and enlarged benevolence. The prevailing spirit of the day is one of diffusive charity. Scarcely a subject that is worthy of attention has escaped its notice. There is hardly a spot where civilized or even savage man has fixed his abode within the reach of the enterprise of his fellow man, which has not been visited and ministered to by it. Few and unenvied are the individuals who have failed, either in their single efforts or their united strength, to disseminate it. Around us on every side, stand monuments of active benevolence. They are adapted to various descriptions of want and suffering, and are admirably calculated to relieve them. They meet and alleviate the distresses of disease and poverty—of the ignorant and the outcast—of the widow and the orphan. But among them all, there was no peculiar provision here, for the kind of deprivation which is now happily provided for by this establishment. It was reserved for the unpretending citizen whose name it bears to endow a charity as kindly intended, judicious and discriminating, as, it is devoutly hoped, it may prove to be extensive and salutary.

Industrious in his habits, without ostentation in his manners, frugal in his living, punctual and exact in all his dealings, he accumulated, as a natural consequence, a considerable fortune. But modest and unassuming in all his ways, and entirely withdrawn from the more conspicuous scenes of life, he locked up in his own bosom, a design full of generous purpose. It had probably been long growing there to maturity, and we may fairly presume it formed the most cherished subject of his secret thoughts. All his cautious abstinence, (which the misjudging world may have mistaken for avarice,) all his zealous industry, (which it may have erroneously deemed superfluous and without an object,) were slowly but surely contributing to enable him to give

full effect to his well digested plans. Let the hasty observers of human actions learn from his example, not to judge rashly of the motives or the conduct of those about them from external indications exhibited to the world. While he seemed to be hoarding up unnecessary treasure, and denying to himself at least, the luxuries of life, and to others the benefits of his possessions, he was almost lavish in the profusion, and unwearied in the practice of his benevolence. His private memoranda show, that while the expenses of his household scarcely exceeded four hundred dollars a year, his charitable donations for similar periods, were nearly fifteen hundred. Until death had rendered him deaf alike to the voice of censure and applause, his munificence was unknown. It disclosed itself even then in no lofty monument, no blazoned record. Humble as his walk in life, was the consistent appropriation of his honest gains. His alliances were not among the affluent and the exalted, and his characteristic bequest records him as the friend of those who are the most likely to be friendless. Nearly the whole of his ample fortune was bequeathed in different charities; this institution being endowed with about one half of his estate.

Man, above all other created beings, requires the aid of those about him. Unassisted, and without the benefits of instruction, he is the feeblest and most impotent of animals. His instincts are less acute. His foster parent, nature, is less protective in her immediate support, because she has planted in his mind the seeds of reason, and given to his body, when in its proper condition, the most happily constructed agents for the service of that godlike faculty. But how especially does he require assistance, when the natural infirmities peculiar to his race are combined with those of an adventitious character. Poverty and ignorance are ills which industry, and bodily and mental vigour may overcome: but when the mind or body is itself incompetent to the duties which are assigned to it, the evils may be lasting as the life of those who suffer them.—That intellectual gift, which should be matured into more than reason, remains, from the want of cultivation and exercise, less than instinct. And all the faculties which are wont to move in infinite and admirable harmony, adapted to each other as they are, and set in motion by the hand of God himself, remain inactive and comparatively useless, if some essential part be wanting. To supply by imperfect but humane exertions that defective part, and thus in a degree to give to all their energy and tone, and symmetry and grace, were in humble and pious charity to further the designs and imitate the works of Providence. If the essence of benevolence consists in the extent and efficacy with which it labours to do good; in the peculiar application of relief where suffering humanity needs it most; in the restoration or the gift of enjoyments which, without its exercise, could scarcely be hoped for; the establishment now about to be opened is entitled to the cordial co operation and support of all who are alive to the distresses of their fellow creatures, and willing to alleviate them—of all who admire and cherish this blessed virtue. Look round to the afflicted family of man. Trace him through his abodes of misery,

“Where men groan beneath the burning axle,  
Or suffer from the rigours of the frozen bear.”

Say, what *can* beset humanity with more intense severity, and yet be susceptible of relief, than a combination of poverty, lameness and want of sight. These are ills, which, if left to themselves, imply the absence of all the external comforts, and many of the absolute necessities of life in present and painful reality; and deny to the sufferer even the consolation of hoping for their attainment in the wildest dreams of fancy. It is not meant to communicate the idea that this bounty will be denied to every individual who may not chance to suffer under all the afflictions named. But indigence, and at least one of the heavy calamities adverted to besides, (want of sight or imperfection of limb,) seem to present the condition for which the testator intended to provide.

Such are the wonderful bounty and wisdom of Providence, so ample, and yet so useful are its provisions; so well arranged, and so completely adapted to their several objects, are its plans; so little is there to ask for, and yet so little to reject, that it is impossible to contemplate the absence of any of the senses without the deepest conviction of the blessings which are derived from its possession, and of the thousand ills which are occasioned by its loss. But sight is far the dearest of them all. The treasures of the world are a price too humble to compensate for the want of this, not only the most comprehensive of our senses, but one which, for many of its uses, admits of no substitute. If philosophy be right in asserting that there are no innate ideas, what a world of perceptions must be unknown to those who have not the means of conveying to the mind even one of the myriads of objects of the sight. Take from an individual almost any other natural gift, and you leave him much which, by his own efforts, may be rendered the source of instruction and delight. With one that is deaf and dumb, a mere observance of the actions of others, and an indulgence in his own natural imitative powers and propensities, lead at least to occupation, the sterling antidote to human misery; and from occupation, the road is straight and plain to positive enjoyment. To him the verdant fields display their beauty and pledge their fruitfulness. They generously yield their products to the wholesome labour of his hands. To him the starry heavens reveal a God. Withhold from the blind the helping hand of charitable instruction, and they live and die in hopeless impotency. The world, and all its gay and glittering scenes to them are nothing—less than nothing; for they are the sources of an aching curiosity which can never be informed. Of all that we behold—man, motion, earth and sky—beauty or grace in nature or in art—landscapes and living things—the waving wood or flowing stream—all their perceptions must be dim, confused and perplexing. Their dreary days consist of one continued, never ceasing night,

“Oh worse than chains,  
Dungeon or beggary, decrepit age.  
Oh dark, dark, dark—amid the blaze of noon,  
With ut all hope of day.”

To this denial of positive enjoyments, is added the painful consciousness of a dependence on others almost entire, for even the little measure that is left them of the blessings of humanity. Not an unaided step is taken without both real and imaginary danger; not a posture is assumed without exposure to unknown and exaggerated bodily harm. They are defenceless to the infant, but without the consolation of infancy—of being unconscious of approaching ill. Can they not then shut out the world, as the world shuts out them, and, turning to the natural fertility of fancy, seek from their own thoughts a cheerfulness that is denied them from abroad? Alas! where is the ray of cheerfulness that finds admission to the benighted *mind*? No diversity is afforded to the monotony of human existence, which constitutes its burthen; no relief from the tediousness of life, which is sometimes too burdensome to be borne. The spontaneous productions of an uncultivated mind, are gloomy thoughts. Left to itself, it be-

comes assimilated to the horrors which people it, and which no returning light dispels. For the radiant hues of religion, are substituted superstitious glooms. The cheering beams of hope are excluded, and in their stead prevail the clouds and darkness of despair. It is said that Sesostris, the Egyptian monarch, who attained the summit of human greatness, and assumed the proud title of king of kings, could find no consolation, in all his grandeur, for the blindness with which he was afflicted, and sought relief in suicide.

Mournful indeed would be the lot of this portion of our fellow beings, if their condition, whether the result of natural or adventitious causes, admitted of no alleviation. Well might they then be tempted to look forward with solicitude for the consolations of the grave. Happily it is otherwise. Inquiries are now made into the numbers of the blind; not with a view to their abandonment or sacrifice, which might have been their fate in a barbarous nation or a different age; not to their exclusion from the great human family: but to the means of their support and instruction; to the admission of them upon terms, although not of absolute equality, yet of liberal participation, to the privileges common to others; to the advantages and delights of rational intercourse, and even of elevated science; to a share in much that art can furnish and accomplishments afford; to an indulgence in the refinements of taste, and many of the comforts and conveniences of polished life. Fewer attainments are absolutely beyond their reach, than a superficial observer would suppose, and not a few are peculiarly accessible to them. If the loss of one sense do not actually render those which remain more active and powerful, it at least quickens the attention from an obvious and painful necessity of cultivating and applying it, and it lessens the distraction which is sometimes suffered from a conflict among different means of acquiring knowledge. A habit of reliance on the touch gives it new sensibility. A consciousness that the ear alone is the avenue to the mind, doubles its devotion and augments its strength.

The memory, which is little more than prolonged attention, is, in general, extremely retentive among the blind. An instance very recently occurred in one of our courts of justice, in which the testimony of an individual who was perfectly blind from his birth, was fuller and more precise than that of almost any other of the witnesses, with regard to a very complicated genealogy. In all other respects he was more helpless than a child. Perhaps the imagination too, unfettered by the attractions of external things, is especially daring and successful in its flights. Some of the most elevated conceptions of poetic fancy are undoubtedly those which have been exhibited in the productions of the blind. Is it not, properly considered, almost a privilege to be withdrawn from many temptations to vicious indulgence which surround the more gifted man, and to have the heart retain its purity, while the understanding in all its faculties may be improved?

But how inestimable is the consolation that skill and science afford (to those who might, without their aid, drag on a life of wretchedness,) in the hope of possible cure? The first great object of this institution is direct and absolute relief—to bestow sight itself where it has been previously denied. This is styled by its founder, a HOSPITAL, not a school. If among the many individuals doomed apparently to hopeless darkness, even some few fortunate persons can be entirely relieved from their affliction, the utmost exertions of benevolence will be most amply repaid. The ecstasies that are said to be experienced by those born blind, at the result of a successful operation upon their eyes, are not to be described. If, to human apprehension, there can be brought home something like a foretaste of future bliss, it may be conceived to be afforded in the sudden awakening of this glorious sense. And then, if, through the remainder of their lives, the great and happy change remains; if every rising sun is hailed with rapture

by the opening eye, and the living world retires from its delighted vision only when nature herself seeks repose in the shades of night; if every human face and form are greeted as things once unknown, unconceived—the comparison can scarcely fail to shed its influence upon the heart, and to call forth perpetual gratitude and praise for the merciful dispensation of which they are the happy instruments. These are the individuals who are afflicted, neither because they have sinned nor their parents, but in their protection and their cure, may we not humbly trust that God will be glorified?

To effect this primary object, neither unwearied efforts nor consummate skill will be wanting. It is not to be supposed, that, at any moment, the best directed exertions will be withheld from actively co-operating in the benevolent design. The immediate concerns of the institution are committed to the care of eighteen persons, whose disinterested kindness will form the most powerful impulse to their activity and zeal. At the head of the Board, as it is already constituted, is placed a gentleman, who, to well tried experience and shining professional acquirements, unites all that can be desired in kindness of feeling, and a deportment as full of gentleness as the amiable spirit from which it springs. An example of so much generosity affords a pledge, that whenever co-operation and assistance are needed from abroad, they will be found among the master spirits that abound in the advanced stage of science which distinguishes the age, the nation, and the city in which we live.

The views of the benevolent founder were not confined, though anxiously directed, to the hope of positive cure. Devoutly indeed were it to be wished, that every child of sorrow could have its peculiar affliction absolutely removed. But misery often visits its victims with a hand so heavy, as to baffle the exertions of the skilful, and to forbid the sufferer the approach of hope. Blindness and lameness may be incurable; and the subject of them may be destined to feel, with every throb of life, the consciousness of their inevitable continuance until the last pulse has ceased to beat in his afflicted frame. Even then the institution is calculated to reach the most generous and useful purposes. Should the best directed efforts to relieve the victims of these maladies, absolutely fail, and their deprivations still remain, where can the wretched better seek for refuge, where can they find more certain protection and support, or kinder care, than will be afforded them within these walls? Here is their *Asylum*, in which it is intended to draw largely from the various sources of alleviation, which experience and observation have multiplied in behalf of those who are the especial objects of its care. An intercourse of kindred suffering will soften its intensity, though it may not diminish its actual weight. Similarly, even in the few and simple employments of the helpless and infirm, will facilitate the exercise of them; and alacrity and comparative cheerfulness will be the consequences of a well regulated companionship. Every created being seeks its kind. Congeniality in habits, capacities, information and pursuits, is the very cement of society. Ideas which are derived through similar channels, and language which is expressive of these ideas, mingle in an intercourse far more harmonious than those which want a common origin, and are therefore perplexing and dissimilar. Lonely affliction broods over its calamities, and magnifies and multiplies them. That which asks for compassion, and finds indifference, or at the utmost pity, suffers aggravated grief.

Sympathy of itself alleviates suffering; and when the deserted and solitary condition of the blind, which constitutes one of their prominent evils, is exchanged for a state of equal and mutual dependence and assistance, a prolific source of sorrow is dried up. A comparison, then, with those about them, leaves little cause for envy of their companions, or for repining at wants which are

not restricted to themselves; and the narrow circle of enjoyments which surrounds them, is moved in by each with an equal and successful claim to participate in all that it affords. Every variety of aid which art and genius have invented to facilitate to the blind the exercise of all their bodily and mental faculties, it is hoped, will be provided here. The young will find, in active and productive employments, intellectual exercise and improvement. The old will rest in the tranquil contemplation of a better destiny that awaits them in a world of light. They will be surrounded, while their feeble frames remain on earth, with all that can soften the pillow of disease, and assuage the agonies of death.

Munificent as was the bequest on which this charity is founded, it was still the humble offspring of private and single handed benevolence. It is therefore necessarily limited in its extent. The amount actually handed over by the executors to the city of Philadelphia (that corporation being selected to give stability at least, and perhaps public interest to the trust) amounted to \$108,396 35; and this accumulated during the progress of the work to \$122,548 57. Of the sum thus actually received, there has been expended in the purchase of the lot, and construction of the building in which we are assembled, including all the contingencies, not much less than one half, or \$57,203 69; leaving as a capital to support the establishment, only \$65,344 88. This narrow provision can of itself supply the wants of few, very few of the numerous individuals who are within the scope of the comprehensive design. It is computed that in Pennsylvania there are between five and six hundred blind persons. Of these, many are happily above the reach of want, and are therefore not embraced by the provision of Mr. WILLS. But with every allowance of this sort, the indigent sufferers are far too numerous to receive assistance from the institution, as it is at present endowed. The destitute among them are for the most part, advanced in life, having in many instances outlived the friends on whom in their earlier years they had depended for support. Some, it is believed, may be able to contribute partially to their own subsistence. But to render sensibly effective the design, or at least to give it an effect corresponding with the generous intentions of the testator, and the liberal quota furnished by himself, the managers must look abroad for assistance. The noble institution in Boston of a similar kind received from Mr. Thomas Perkins a conditional donation, which served as the happiest and most successful incentive, and was rendered effectual only on its being augmented from other sources, to a certain practically useful extent. Means of like productiveness must be resorted to here, or the scheme will fall far short of the utility which it contemplates, and of which it is (with the necessary aid) altogether susceptible. The young and the comparatively active may, and probably will, furnish by their own hands, means either partially or totally adequate to their own support. But the aged and the helplessly infirm, must depend entirely on the funds of the house. These, as they stand at present, are far below the necessities of the *seventy* individuals which the building is now constructed to accommodate.

The patronage of a legislature never backward in devoting a portion of the resources of the great commonwealth which they represent to works of useful public benevolence, may, it is hoped, be seasonably extended over this roof. But it is characteristic of the various charitable institutions which ennoble our city, that they rest mainly on the basis (and it is happily broad and strong) of private voluntary contribution. It is the proud characteristic of the country itself, and one of the happy effects of the frame of government under which we live, that private munificence should be the abundant source of public benefit and prosperity.—Every individual forms an important aid, it may be, a prominent member of the great family of which he is the son and brother, and not the subject or the slave.

The good of the whole is his individual prosperity; the elevat on and advancement of the whole is, or ought to be, his individual aim.

In other countries, princely fortunes are lavished on the decoration and embellishment of private edifices and estates—in the display of costly retinues or glittering equipages. What is the consequence? Why, that the means of genuine beneficence are often reduced even below the standard which a moderate income would attain. One who is perhaps the richest private man in Europe is understood very recently to have been brought to the brink of insolvency by the expenditures called for by his individual establishment; and the result, if report be true, may be ascribed in some degree to the mere magnificence of his dress. Such display is congenial to the spirit, and even useful to the support and embellishment of governments, of which the parties who make it are still but the subjects, although they exhibit, in many instances, a more than royal state. But it cannot, from the nature of things, serve, in its greatest conceivable abuse, as a drain to opulence, or as an object of pride or devotion, in the existing state of American manners. It is unsuited to the simple tastes and frugal habits of a nation whose chief magistrate receives a stipend infinitely less in its annual aggregate than the cost of a coat of an Austrian prince, which is said to have lost a hundred pounds worth of pearls every time it was worn; of a nation upon whose whole civil list, the retinue of a single British nobleman might starve. Here the avenues to costly liberality are peculiarly of a charitable nature. The foundation of a hospital or an asylum preclaims the munificence of a rich American. His proudest retinue consists of a host of fellow beings rescued by his hand from poverty and affliction. His noblest monument is a house of charity, made vocal with the voice of heartfelt gratitude. Shall it be that while elsewhere a generous citizen literally acts the part of his own executor to his own bounty, in the wise and liberal devotion of his abundant means to the noblest ends, that we shall not find a combination of similar resources reaching the same results among ourselves? If it be so, the character of our city must have changed, and the honorable pledges of continued liberality, which have been so often given, and which stand in humble but undeniable assurance of the spirit of their departed founders, will serve, unredeemed, as a reproach upon the degeneracy of the age.

For the most part, the work of beginning constitutes the greatest difficulty. But when a rallying point is fixed, around which the feelings may centre, in which they may safely rest, where there is no danger that generosity may be without an object, or that good feelings will be mispent, half the work is accomplished. Permanence and stability are insured to this institution, by vesting its superintendence in a body appointed from time to time by the very corporation of the city itself. No caprice can materially change the course in which the stream of generosity is destined, it may be hoped, to flow for ages. No storm of party strife can essentially agitate it. No misdirection can be reasonably anticipated; and if it should for a moment occur, it must, of necessity, be merely temporary.

In indulging the fervent hope that the exertions of medical skill may not unfrequently relieve the inmates of this house, and that, when a cure is impracticable, they may at least enjoy the comforts of a *place of rest*, the views of those who are to watch over it expand beyond even these kind results. A still wider scope of individual happiness and public benefit is embraced by them. The subject of blindness in all its phases is brought into consideration, and universal attention and concern are more especially invited to the relief, the instruction and the care of those, wherever their lot is cast, who may chance to be its victims. In softening the rigorous fate of particular individuals, the great ill itself may happily be deprived of some of its darkest

hues. The extent of literary instruction will necessarily be limited; and it may, with respect to those of the most suitable age, be safely left to the excellent, though recently established institution, which is already in fair and successful operation among us. *That* institution proposes "to make blind persons of rich or easy families happy members of society." The care of *this* is confined exclusively to the poor. *They* look to the period of youth, which is usually considered the best adapted to receive instruction, when the mind is yet ripening into maturity, and receives impressions with promptitude and facility. *We* embrace the whole round of human life, if its necessitous condition should require relief, from early infancy to extreme old age. *They* justly hope to conduct their pupils into the higher regions of scholarship, and to give them various attainments and accomplishments. *We* do not look to confer upon the children of indigence the brilliant distinctions of learning and philosophy. But practical and elementary knowledge is within the design. Opportunities will be afforded, and anxiously embraced, to confirm the assurance and diffuse the information that the blind are *capable* of becoming the masters of useful knowledge, and even of lofty and distinguished attainments. Efforts will be made to place them, generally, as in some remarkable instances they have been already placed, by education, upon ground of scarcely discernible inequality with those who see. In the barbarous policy of a Turkish despotism the expedient of putting out the eyes has often been resorted to as a cure for ambition, and a means of tranquilizing the most daring usurpation in its possession of the throne. The impotency which it was supposed to create might not, perhaps, have proved unworthy of regard or dread, if the present sources of instruction had been known. When we contemplate indeed various instances which have occurred, blindness might almost seem to have ceased to be an affliction. Ordinary calculation is baffled by the happy adaptation, which has been practised, of new means to known and definite results; an adaptation which, except under the spur of necessity, could not have been conceived. Philosophical deductions, to all appearance the best founded, are disappointed and corrected by well authenticated facts. An obvious and intimate acquaintance is frequently found among the blind, with subjects which cannot reach their minds through the natural and accustomed channels, for they do not possess them. In practice and in theory, conduct is influenced and knowledge is acquired among them by some process, to which those who see are strangers, and for which they can but imperfectly and unsatisfactorily account. Perhaps a far deeper reach of reflection may be the consequence of excluding the influence of bodily sight and a consequent discovery of the inmost recesses of the human soul and the things contained in them, which are beyond the efforts of penetration of ordinary thought. It is said of an ancient philosopher, that he put out his own eyes in order that he might pursue his contemplative studies with the greater effect. This extreme self-denial, imputed to Democritus, is perhaps a fable; but it harmonizes with the undoubted truth that studies and employments and accomplishments of a contemplative character have been those which are the most willingly and successfully pursued and mastered by the educated blind. For music, as a source of recreation and amusement, they have generally the keenest relish; and for attaining a knowledge of its theory and a proficiency as performers, they possess more than ordinary powers. It is not necessary here to trace the (possibly secret) springs of this unquestionable truth; but the admirers of that enrapturing art will discover in the fact a powerful argument in favor of the elevated moral sense and amiable tendencies of those who so eminently possess the kindred feeling which usually accompanies them. At least a never failing source of harmless occupation is thus peculiar to them as a class. As such, it diverts the

thoughts from melancholy channels. It often soothes the troubles of an over anxious spirit. It contributes largely to avert the influence of discontent, and the exposure, as a natural consequence, to temptation to error; and, in the result, an indulgence in the formation of evil designs and the perpetration of evil deeds.

It is a most interesting fact, one that should furnish a rich source of consolation, if not an active stimulus to exertion, that, of the two greatest poets that have graced the annals of mankind, one is known to have been blind, and the other, (although at the distance of so many centuries little personal knowledge of him remains,) is supposed to have been the subject of the same calamity.

Similar habits of contemplation lead to a fondness for the exact sciences, and occasionally to a high degree of proficiency in them. The mathematics, as they are ordinarily studied and applied, depend for many of their uses, and most of their illustrations, directly upon the objects and exercise of the sight. Sight seems almost indispensably requisite to study and become acquainted with the minute and complicated structure of figures, and all their combinations and varieties of lines and angles. Its necessity would appear still more absolute for the purpose of applying these principles practically to the measurement of heights and distances, of surfaces and solid bodies, and of reaching the often wonderful results. Yet no principle of this almost magical science has been hidden from the searching penetration and scrutiny of the BLIND. All its beauty and all its exactitude, every angle and every curve, every complex figure and every abstruse and intricate calculation, have become as familiar to their instructed understandings as if they had been able to borrow divine assistance from the brightest sunbeams, or as if the sublime and mysterious explanation were exhibited to their opened and astonished vision upon the firmament, in characters of radiant light.

To learn and to teach mathematics, would seem to be the very utmost effort of which individuals are capable who have not the gift of sight. But let them rejoice that the adventurous flight of human intellect, under apparently the most pressing disadvantages, is not to be restrained; that it may yet soar through every region, and aim successfully at the loftiest heights.—They have before them examples of the exercise of almost every description of useful, honourable and happy employment among themselves. Sculptors have given shape and feature, and the various expressions of the countenance, which they never could have witnessed in the living physiognomy, to the marble block.—Orators have communicated through the medium of eloquence, the influence and contagion of their own sentiments and passions, without the fascination of the sympathetic eye. Profound scholars, learned linguists, physicians, chemists, natural philosophers, artists in various departments of mechanical industry—all have been found among the blind. They have even ventured with wonderful success to explore the peculiar regions of sight itself, to emulate the sublime labors of Newton in philosophizing and experimenting upon lights and shades; to teach the wonders of the prismatic spectrum, to unfold the variegated beauties of the rainbow and all its interesting phenomena, to explain the theory of vision, to lecture on optics as a science, and to disclose to those who possess that delicate and precious organ which is denied to themselves, the mysteries of the eye. They have sometimes selected occupations which might be supposed the most inaccessible and opposite to their condition. They have served as guides to travellers through the sandy deserts of Arabia; as wagoners, and even projectors of highways along the difficult recesses and lofty heights of mountains.—Employments, these, in which all the aid of the keenest vision would be brought to bear by those who ordinarily discharge them. A blind person was not long since well known in Kensington, whose business con-

sisted of cleaning clocks; a work which, it is believed, he performed with skill, and without detriment or danger to the delicate machinery in his hands. The facilities are well known with which even the slightly instructed among these individuals have earned a subsistence by means of a slender stock of musical skill, and a sort of instinct which aids them in their journeys to and from their places of exhibition. A blind fiddler at Easton was asked how he was able to walk through the streets without danger of running against the objects that were about him. He explained that his protection arose from the habit of uttering as he went a sort of chirping with his tongue, which was echoed by objects as he approached them. Such an echo has certainly no existence in the ears of one who sees. It may serve, however, to explain the faculty which has been imputed to blind persons, of being able to tell with wonderful accuracy the size of an apartment, independently of measurement or any other obvious sources of information. Echoes may be both increased and multiplied to an extent that is almost incredible.—Lord Bacon tells us of one, near a small town upon the river Seine, which returned the voice sixteen times.—Sound is undoubtedly susceptible of reflection as well as light, and in its faint and scarcely audible return from an object which it strikes, it may readily inform the acutely attentive and practised listener of its distance, and consequently of his danger.

Such, and so various at least, are obviously the resources, as they have been the occupations of the blind. They altogether manifest a power and a fitness for useful exertion, to be measured and limited only by the boldest enterprise. A conviction of this truth will lead to relief, enjoyment and honorable occupation for themselves, and to extensive and varied usefulness towards their fellow beings. Almost all that man can do or dare, is within their power. Where the objects to be accomplished are such as the same organs are applied to by others, the equality ought to be nearly, if not quite entire.

But when the sphere of instruction and employment is opened, which belongs peculiarly to those who see, in which they exercise their peculiar and exclusive properties, the blind are originally as much strangers to its concerns, as the inhabitants of another planet to the usages of this world. Yet the instruction which is employed to strengthen and direct their own particular powers, affords food for curiosity, and gives a zest to the ambition which pants for still more extensive attainments. Wisdom and intelligence cannot remain partial and incomplete. The soul imbibes new desires with every additional acquisition. Every height it gains serves only to extend its view, and tempts it to a loftier, wider reach. Philanthropy urges, that even these fond desires should be gratified. Each particular sense is then called on to perform, not only its especial office; but duties properly belonging to other senses, when they exist, are confided to it. A knowledge of all that books afford of the lessons of morality and religion, of the bright examples of the glorious dead, of the glowing precepts of living wisdom, is usually acquired by means of the sight. The same gate to vista is opened to the blind through the practised and improved sensibility of their touch. How consolatory is the hope which this single illustration gives—the power of reading is exercised by the finger instead of the eye. All indeed, it must be acknowledged, within this especial range is still imperfect. It is the feeble, though fortunate substitute of art for nature—of the work of man for the power of God. Yet it affords all that ought to be desired, and all perhaps, that is deserved.

These, our fellow beings, uninstrued—unredeemed, are like a priceless jewel buried in the earth, and shrouded in darkness apparently impenetrable. Taken from its gloomy bed, and aided by the hand of skill, it receives the cheering influence of "holy light;" and it reflects with keen and active lustre the bright effluence

of the skies—returning beam for beam and ray for ray. Should the eyes of these our brethren continue dim, and their native brightness never be restored—at least their hearts will gleam with heavenly gratitude. Shedding the softer, gentler light of the immortal spirit from which it springs, the influence of this feeling will last when nothing earthly of them shall remain; when all that is best of man, that which stamps him, notwithstanding his imperfections and infirmities, as the image of his maker—reason itself, sublimed into a still purer essence, shall be either utterly absorbed or infinitely exalted.

From the African Repository.

#### YOUNG MEN'S COLONIZATION SOCIETY.

A copy of the proceedings of the Young Men's Colonization Society of Pennsylvania, in the month of June last, was transmitted to the Parent Board at Washington and published in our July No. page 150.

Messrs. CRESSON and NAYLOR having arrived in Washington, as a Committee from the Young Men's Colonization Society of Pennsylvania, to confer with the Parent Board, it assembled on the 2nd of July, in order to receive those gentlemen. The following is an

*Extract from the minutes of the proceedings of the Board of Managers of the American Colonization Society, July 2d, 3d, 1834.*

Messrs CRESSON and NAYLOR respectively exhibited their views of the relations held by the Young Men's Colonization Society to the Parent Society, and of their wishes in regard to colonizing certain liberated slaves of the late Dr. ASHLEY HAWES of Virginia. After full discussion, and a general interchange of views between the several members of the Board, and of the Committee of the Young Men's Colonization Society of Pennsylvania, it was

Resolved, That a committee be appointed to confer with Messrs CRESSON and NAYLOR on all matters relating to their present agency at Washington; that said Committee receive the views of those gentlemen in writing in relation to the extent and field of operation proposed for the Young Men's Colonization Society of Pennsylvania, and particularly whether the said Society in establishing a colony at Bassa Cove, design to act as Auxiliary to this society, or as an independent Society, and make a report to-morrow at 5 o'clock, P. M. of all the facts above referred to, with their opinion on the same.

Messrs. LOWRIE, SEATON and GURLEY were appointed the committee.

On the following day, the 3rd of July, the Board met, and the Committee made their report, which was read, considered and *unanimously adopted*.

The following is the statement of the delegates from Philadelphia, referred to by the committee:—

We were appointed by the Board of Managers of the Young Men's Colonization Society of Pennsylvania, for certain special purposes enumerated in the resolutions under which we were appointed: a copy whereof is in your possession, and which we will consider as annexed to this statement.

The first of our instructions is to obtain the authority and sanction of your Board for the transportation of the slaves recently liberated by the late Dr. Hawes of Virginia.

Your Board, however, prior to its giving us such authority and sanction, is desirous of knowing how far it can legally do so if our proposed colony be entirely independent of any control or accountability to your Board? And also request to be informed by us whether we contemplate a total independency, or for what purposes and to what extent we consider our society connected with, or subject to your Board? Before we pre-

tend to answer this question, we must distinctly state that we have no authority to enter into stipulations upon this subject or to define the respective authorities of the two Societies. It is a matter which has never been determined, and we may add, discussed by our Board; and that so far as concerns this question, our commission is limited to the simple direction to obtain from your Board its sanction and authority to colonize the said slaves. All, therefore, that we shall say upon this head, is either our own individual opinions or what we deem to be the sentiments of the Society.

The first article of the Constitution of our Society provides that the said society "shall be Auxiliary to the American Colonization Society;" and the address recently published by the Board we represent, declares that it is to sustain "the direct relation of an Auxiliary, in such a way as not only not to diminish, but on the contrary, to increase its resources." The object of the Society, then, as we understand it, is to establish and to maintain, at its own cost and expense, a separate colony on the coast of Africa upon the principles mentioned in its Constitution, and to take as its first emigrants to said colony, all the liberated slaves of the late Dr. Hawes of Virginia; our Board to have the local regulation of said colony, to prescribe the manner in which colonization shall be conducted, to appoint its own Agents, and be an independent colony for the purposes which we think will secure to us the powerful operation of the whole people (and perhaps the Legislature) of our great State, and promise so much benefit to the cause of Colonization generally—whilst at the same time we would seek such arrangements with your Board as would secure to your colony a rapidly increasing prosperity, imparting to it aid and strength and sustenance, in order that it might be able at any time to step in to our relief or rescue. How this is to be done, what these regulations shall be, and how far the independence of our colony shall be restricted by your Board, we do not pretend to say. This is a matter for future regulation. One thing, however, must be taken care of, that whilst we are endeavouring to extend the cause of Colonization by planting a *new* colony, the *old* one must not be permitted to languish. That must go on increasing in strength and power. As we propose to be Auxiliary we must *help* it. And as that is already so successfully established, it must be sustained.

In reference to our action at home, which your Board is also desirous of being informed of, it is intended, so far as we can speak for ourselves, to appoint, support and control an Agent for our own State, and to have the management of the funds collected;—to act in conjunction with the New York Society in case a union should be formed; both, however, acting Auxiliary to your society, in "such a way as not only not to diminish, but, on the contrary, to increase its resources."

We think that the cause of colonization should not be limited to the successful establishment of but one colony. The friends of the cause and its ultimate and triumphant success, require more of us. We should attempt more; and we feel fully convinced that our measures may be so prosecuted, that even if our attempts should fall short of a permanent establishment, yet that it may and must add to the welfare, permanency and extension of the colony already established by your Board.

We look to the separate action of our colony, preserving, however, a conformity with the Constitution and general laws of Liberia, as but temporary; and shall rejoice when we may be enabled to surrender our trust, and permit the two colonies to blend into one harmonious whole.

ELLIOTT CRESSON,

CHARLES NAYLOR.

WASHINGTON, July 3d, 1834.

To Messrs LOWRIE, SEATON and GURLEY,  
Committee of A. C. Society.

Resolutions referred to above:—

Resolved, That two persons be a commission to visit

without delay, the city of Washington, and also the region of Virginia where the executors, heirs and slaves of the late Dr. Hawes reside, with instructions as follows—viz:

1. To obtain the authority and sanction of the Parent Board for the transportation of said slaves.

2. To secure the permission of said Board for the landing of these colonists at some suitable and safe point in the territory, for shelter and protection (in the event of our preparations to receive them at Bassa Cove being found incomplete) until suitable accommodations can be prepared for them; it being understood that we assume the control and expense of the expedition, and that the twenty dollar allowance, per head, for transportation, be transferred to us.

3. That said commission be instructed to repair to Virginia, and there ascertain the terms of the will—the limits of the law, as to relapsing into slavery, the state of the slaves, the ability and purpose of the executors as to the sum allowed in the will for their removal; and whatever may be necessary to secure the great object we have in view.

4. And that said commission be requested to ascertain whether the laws of Virginia will allow any delay beyond the specified time arising from peculiar necessity; and if not, then whether, if it should hereafter be required by our circumstances, or those of the slaves, we may not, for a season, accommodate them in the District of Columbia, or the State of Maryland, until the season and their preparations enable them to set sail.

5. That this Board will pay all expenses of the commission incurred in our service.

The report of the Committee is as follows:—

The Committee appointed to consider the views submitted to the Board of Managers by Messrs. Cresson and Naylor, in regard to the plan and purposes of the Young Men's Colonization Society of Pennsylvania, submit the following Report:—

The delegates from Philadelphia have placed in the hands of the Committee, a statement, containing opinions varying little from those expressed verbally by them at the special meeting of the Board on yesterday.

The members of the Young Men's Society of Pennsylvania are, the Committee have no doubt, animated by a generous and enterprising spirit of activity in the cause of African Colonization, and have already done much to excite new interest and sympathy in its favour, among the citizens of Philadelphia.

The Committee cannot question the right of the Young Men's Society, or of any other Society, to adopt such principles and measures as they may deem proper for the furtherance of their object. Should any Auxiliary Society consider it expedient to dissolve its connection with the Parent Society, and act altogether independently, this Board, however it might differ in opinion from such Society in regard to modes of operation, for the common cause, would rejoice in any success which might attend its benevolent efforts.

Much, it is obvious, may be done by Auxiliary Societies without instruction or authority from the Parent Board, to increase the resources, accelerate the operations and extend the influence of the cause. Nor can the Parent Board, presume to prescribe for what particular object the funds collected by such Societies for the general cause, shall be expended. The Massachusetts Colonization Society has resolved to devote its funds mainly to the promotion of education in the colony. The Albany Society has directed that a certain amount of its contributions shall be applied to founding a new settlement to bear the name of Albany, and from which ardent spirits shall be excluded; and the State Society of Pennsylvania, that the aid it may furnish, shall go to relieve and sustain the colony, rather than to other general purposes for which pecuniary means may be

required. The Parent Board regard the donations of their fellow citizens, and Auxiliary Societies as entrusted to them, to be expended for the cause in any way the donors may direct, *not* inconsistent with the general principles and objects of the Society.

By the will of the late Dr. Hawes, more than one hundred slaves are left to be settled in Liberia, under the direction and guardianship of this Society. Viewing the Young Men's Society of Pennsylvania as Auxiliary to this the Managers consented, some weeks ago, at the request of that Society, to place these slaves, on certain conditions, under its care, that they might be sent out by it, and established as a new settlement at Bassa Cove, which settlement should be maintained and regulated by the Young Men's Society, in consistency with the general authority of this Board and the Laws of Liberia. In consenting to transfer the slaves of Dr. Hawes to the Young Men's Society, the Managers did not understand that they were placing them in the power of an entirely independent Society, or agreeing that they should be sent to a colony over which this Board would have no control.

The question submitted, as the Committee apprehend, by the communication of Messrs. Cresson and Naylor, is, whether this Board shall consent to yield up the whole work of African Colonization in Pennsylvania, or in Pennsylvania and New York, to a separate and independent Society, and that such Society shall found an independent colony on the present territory, and in the neighborhood of settlements already established in Liberia. True, the Young Men's Society of Pennsylvania is styled Auxiliary, in its Constitution, to the Parent Board, but its purpose as explained is, to establish an independent colony to be governed exclusively by its own laws; laws adopted without the sanction either of the Parent Board, or the colonial government: and for the planting and support of this colony, the States of Pennsylvania and New York are to be an exclusive field of agency for the new independent society, within which the Parent Board is to have no Agents, no Auxiliaries, and no benefit from the Fourth of July collections. It is indeed proposed that all surplus funds not required for the management and enlargement of the new colony, shall be paid over to the Parent Society. But every one acquainted with the expense of founding a new colony, or with the powerful motives which will invite increased expenditures for its extension and improvement, must regard such a proposal as significant of little more than kindness and good will to the Parent Society.

The Committee feel it their duty to express their opinions the more fully and frankly on this subject, because the views of the Young Men's Society of Pennsylvania are made known in connection with a request that the slaves of the late Dr. Hawes should be placed under their control, and because they deem it a subject of immense importance to the cause.

While the Committee are sensible of the propriety of enlisting as far as practicable, consistently with united and harmonious action, the local feelings and sectional interests of the friends of the Society, they believe, that a separate and independent course, on the part of Auxiliary Societies, if generally adopted, would annihilate the Parent Institution. To consent to such separate and independent action then, would, on the part of this Society, be to yield up its very existence.

The proposition for this separate and independent action comes from the Young Men's Society of Pennsylvania only. The views of one Society, cannot be regarded as expressing the general sentiment of the country, or even that of Pennsylvania and New York. In both of these States, the Parent Society has many able friends and Auxiliaries, and although the New York City Colonization Society has announced its purpose of founding a new settlement at Cape Mount, yet the noble zeal and liberality recently evinced by its members and Managers in aiding the funds and opera-

tions of the Parent Board, at a trying crisis, afford reason to believe, that it contemplates nothing calculated to diminish the strength, or disturb the harmonious operations of this Society. At the suggestion then of a single Society, the Committee could not recommend to this Board, to yield up a trust confided to them by the general will and voice of the friends of African Colonization in every quarter of the country.

The Committee are of opinion, that a separate and independent Society embracing the friends of African Colonization in the States of Pennsylvania and New York, engaged in the establishment of a new and independent colony, if sanctioned by this Board, could hardly fail of uniting to it the feelings and commanding the resources of New England. Indeed the circular of the Young Men's Society of Pennsylvania, indicates it as a cherished purpose to bring into the measures of that Society, the opinions and contributions of all the "Atlantic free States." In case of such a union, it could hardly be expected, that the south and west would continue long to sustain a Board established on the northern and eastern borders of their territory, but that they would seek a more central organization. A total revolution would thus be effected in the present general Society; the effect of which on the present colony could not be other than disastrous.

A marked division and difference of sentiment between the organized friends of the cause at the north and the south, would, in the judgment of the Committee, be almost inevitably the consequence of such a change. This consideration alone, is entitled to very great weight in forming an opinion on the subject. As the population to be especially benefited by this Society, mostly reside at the south, and to a great extent, depend upon the citizens of the south, it is of extreme importance, that the people of the north should remain united with those of the south, in the plans and the measures that may be devised and executed for their good.

The principal reason suggested in favour of the views of our friends from Philadelphia, is derived from the idea of a general want of confidence in some portions of the north, in the management of the Parent Society. To vague and indefinite charges, it is impossible to give a distinct and definite reply. The Board assume no claim to infallibility; but it is due to themselves to say, that since the Annual Meeting, they have bestowed the most unremitting attention to the high trust confided to them. They have published an exposition of the affairs of the Parent Institution, of their principles, the causes of their embarrassment, and of the measures proposed for future action. They do not perceive that in their principles and measures, they differ essentially from the Young Men's Pennsylvania Society. If their proceedings should fail to meet the approbation of the friends of the cause, a remedy is at hand. The whole Board can be changed at any Annual Meeting, and (what would be impossible were the unity of the Society destroyed) all great measures be considered and discussed in a Convention of the best and ablest friends of the cause from every section of the United States.

It is clear to the Committee, that whether we consider unity of sentiment, or vigour and economy of action here and in Africa, the cause of African Colonization can, at present, be most advantageously conducted, under the general superintendence of a Central Board, and that while great good may result from such an adjustment of measures with the Young Men's Society of Pennsylvania, and other Auxiliaries, as may give them a wide sphere of operation for their zeal and enterprise in the great common cause, yet the measures of such societies, both here and in Africa, should be under the general control and authority of the Parent Society.—The committee recommend the adoption of the following resolutions.

Resolved, That entrusted as this Board are with the interests of the American Colonization Society, they cannot give their consent to the institution of a society

professedly Auxiliary, but in reality separate and independent of the Parent Society, believing as they do, that such a principle, if adopted generally by Auxiliary Societies, would annihilate the Parent Society, and endanger the whole scheme of African Colonization.

Resolved, That the Young Men's Colonization Society of Pennsylvania be informed, that as Auxiliary to this, the slaves of the late Dr. Hawes will be transferred to them, to be sent to Liberia, and supported there by them in a separate settlement or community, under the superintendence of such Agent and of such local laws or regulations as may be adopted by the said society, and approved of by this Board; but said community to be considered as a part of the colony of Liberia, and subject to the general laws of the colony in all respects as the citizens now there; and that so soon as said society shall signify their acceptance of these conditions, the said slaves shall be formally transferred to them, together with the sum left for their transportation by the will of Dr. Hawes.

At a meeting of the Board of Managers of the American Colonization Society, held on the 1st day of August, 1834, a letter, dated July 25th, 1834, from Mr. Elliott Cresson, Corresponding Secretary of the Young Men's Colonization Society of Pennsylvania, to Mr. Lowrie, a member of said Board, enclosing the following Report and Resolution adopted by the said Young Men's Colonization Society, was together with said Report and Resolution, read:—

At a meeting of the Board of Managers of "the Young Men's Colonization Society of Pennsylvania," held July 22nd, 1834, the following Report and Resolutions submitted by the Executive Committee were adopted, and the Secretary directed to forward a certified copy thereof to the Board of Managers of the "American Colonization Society, at Washington.

The Executive Committee to whom was referred, by the Board of Managers, the subject of the kind of Auxiliary connections and relations which the "Young Men's Colonization Society of Pennsylvania" should maintain with the American Colonization Society at Washington, and the conditions upon which the former agrees to receive from the latter the manumitted slaves of the late Dr. Hawes of Virginia, with a view to their being located in a new settlement on the coast of Africa, Report—

That the known and admitted advantages of position of the Parent Board at Washington, and of the composition of the American Colonization Society, of which it is the executive branch, forbid the idea of independent action by Societies formed on the model of this one. The Young Men's Colonization Society of Pennsylvania, distinctly admits in its Constitution, its Auxiliary character; nor is it content with affirming a merely nominal connection of this kind with the Parent Board. It has carefully abstained from extending its sphere of action beyond the State of Pennsylvania, and within these limits it proposes to make the proceeds of its labours not merely subservient to the general objects of Colonization in Africa, but to dispose of them in such a manner as shall meet the approbation of the Parent Board.

This latter, by its location at the seat of Government, is enabled to unite the North and the South in the great cause of Colonization, and to procure joint action between portions of the country and their inhabitants which could not be done by a Society in any other section of the country. It is, moreover, requisite that there should be a central Society or Board, to exercise a general superintendence over the settlements on the coast of Africa, the better to preserve among these, the necessary harmonious intercourse and other relations. This Board is also best fitted to keep the whole United States apprised of the progress and wants of the whole of the African colonies, and thus to enable the former to transmit, with knowledge of all the circumstances, the pecuniary and other assistance

which they may propose from time to time to furnish to the latter.

It must, on the other hand be conceded, that an Auxiliary, such as that of the Young Men's Colonization Society of Pennsylvania, enjoys means and facilities for furthering the common cause, superior in some respects, to those possessed by the Parent Board.—Among these may be mentioned the readiness of a direct appeal to a large and wealthy population for countenance and aid,—an appeal which, moreover, would be perhaps coldly responded to if made by any Society whatever at a distance. Next in the list of peculiar advantages, is the location of the Young Men's Society in a commercial city, by which greater economy and despatch in the transportation of emigrants and in the outfit of them and the colony in general, are insured. It is also an encouraging circumstance, that some of the members are themselves merchants and men of business, particularly conversant with the marketable value and price of goods, utensils, &c. for the colony. In view of these advantages, it can hardly be expected that the Auxiliary operations of the Young Men's Society of Pennsylvania, should be restricted to a mere collection and distribution of funds to order for the parent Society, without at the same time a direct participation in council and executive action with the latter. But as the exercise of this right could only be salutary and efficient, after a full knowledge of all the circumstances connected with the condition of the colonies and the resources of the Parent Board, and as the information requisite for a due enlightenment on the subject, can hardly be in the possession of an Auxiliary Society, the latter must either refrain from all joint council and legislation with the Parent Board, or take a particular line of action tending to a specific end. This has been already done by some of the State Societies, with the consent of the Society at Washington, and it is now proposed to be carried out by this Society and its board of Managers in Pennsylvania. The scheme to which the energies of this Society are now to be directed is, the founding of a new settlement on the coast of Africa, under the auspices of the Parent Board, and yet with such modifications and reforms as would render it difficult for the latter, to assume at once the entire responsibility without an admission of continued wrong done to other colonists and the settlements now in existence. Just so far as these modifications and reforms extend, would it be necessary to have different or amended local laws and regulations, if not a different executive agency; as when it is proposed in the new colony that more attention shall be paid to agriculture, the importation, manufacture and sale of ardent spirits prohibited, and an uniform plan adopted and acted on of supplying the public stores, and for the issue, by gift or sale, of their contents to the colonists and native inhabitants.

But as the Parent Board is entitled to reap its share of success and increased reputation to the cause of Colonization, even in measures not primarily of its own suggestion or originating, its counsel and guidance are invoked in the present enterprise by the Young Men's Society of Pennsylvania. The Auxiliary here invites the sanction of the principal to the measures now in progress by the latter for the selection and purchase of land for a new colony, the appointment of a home Agent and a Governor, and the enactment of such laws as experience shall indicate in addition to, or in modification of those already in force in Liberia. Until the sanction by formal consent be given to these steps, as well as those which may be afterwards taken toward the attainment of the great objects in view—colonizing and Christianizing Africa, the Young Men's Society will feel itself deprived of that countenance and support to which it looks with continued hope and affection. It is proposed, moreover, the better to secure joint action and to preserve to the Parent Board its right of general superintendence, that a special

agent should be dispatched from time to time, from Monrovia, to visit the new colony, and be instructed to give his aid and counsel towards maintaining a right understanding between it and the other colonies on the coast.

With these explanations (made in a spirit of perfect good will and fellowship) of their understanding of the Auxiliary connection and relation which the Young Men's Colonization Society of Pennsylvania have with the Parent Board at Washington, the Executive Committee submit the following resolution:—

Resolved, That the Board of Managers of the Young Men's Colonization Society of Pennsylvania, agree to the terms proposed in the second resolution of the Parent Board recently received, (and annexed hereto,) respecting the transmission by the latter to the former, as from principal to auxiliary, of the manumitted slaves of the late Dr. Hawes of Virginia; and that they will proceed forthwith to complete the necessary arrangements for a new colony at or near Bassa Cove,—the first settlers in which are to be the said liberated slaves.

The above is a true copy:

JOHN BELL, *Chairman.*

TOPLIFF JOHNSON,

*Secretary of the Board of Managers.*

Whereupon it was, on motion, unanimously

Resolved, That the said Report, adopted and transmitted by the Managers of the Young Men's Colonization Society of Pennsylvania, meets the approbation of this Board, so far as the same is in accordance with the Report adopted by this Board on the 3rd day of July last, in which their views of the relations between Auxiliary Colonization Societies and the Parent Society, were distinctly set forth, and of which a copy was transmitted to the Young Men's Colonization Society of Pennsylvania.

Resolved, That the Resolution of the Managers of the said Young Men's Colonization Society, accompanying the aforesaid Report, adopted and transmitted by them, agreeing to the terms on which the Parent Board had consented to transfer to the said Young Men's Colonization Society the colonizing in Liberia of certain manumitted slaves of the late Dr. Hawes of Virginia, entirely satisfactory to this Board; and that they will place said manumitted slaves under the care of said Young Men's Colonization Society for the purpose aforesaid, and will afford every facility in the use of the receptacles, and in the countenance, aid and assistance of the Agents of the Parent Society, at the colony, that may be wanted to promote the comfortable settlement of said manumitted slaves at their proposed residence within the Liberian territory.

Resolved, That a copy of these resolutions be transmitted to the Young Men's Colonization Society of Pennsylvania.

Published by order of the Board.

Attest:

JAS. LAURIE, *President.*

P. R. FENDELE, *Recorder.*

From the Philadelphia Gazette.

## PROCEEDINGS OF COUNCILS.

Thursday evening, Oct. 3d, 1834.

### SELECT COUNCIL.

The President submitted the account of the receipts and payments of the Mayor, Aldermen and citizens of Philadelphia, in trust for the Girard funds, from July 1st to September 30th, 1834, inclusive. Laid on the table.

Mr. Lippincott from the Board of Commissioners of the Girard Estates, made report, that in obedience to the resolutions of Councils, the Board had employed counsel on behalf of the city, to institute legal proceedings for the recovery of the estates of Stephen Girard, acquired after the publication of his will.

Mr. Price presented a petition in favour of connect-

ing two engine houses with the market house about to be erected in Market street west of Broad, and alleging that the memorial against said measure originated from *interested motives*. Referred to committee on markets.

Mr. Eyre, from the committee on Delaware wharves, made the following report, which was laid on the table.

The committee on Delaware wharves, to whom was referred the resolution of Councils, passed Sept. 25th, 1834, relative to this committee, beg leave to submit the following report:

1. That having under consideration the application of the President of the Board of Commissioners of Southwark, relative to the expediency of extending South street wharf eastwardly so as to make the eastern termination in a right line with wharf street, are of opinion that there is a commodious and safe entrance to wharf street as laid out in Southwark, and that it is not the interest of the city to make any alteration or improvement at South street, until the plan of Delaware Avenue is completed.

2. The committee think it most for the interest of the city to postpone for the present the further improvement of the drawbridge lot and wharves, particularly if it should be deemed necessary to construct a rail road from Broad street to the river Delaware. The only property belonging to the city, suitable for a depot, is the drawbridge lot.

3. The building at the drawbridge is leased for one year by the City Commissioners under the direction of this committee.

4. In relation to the petition praying that Delaware Avenue may be opened between Chestnut and Pine street, your committee state that about the time the petition was referred to them an ordinance was passed by Councils, advising Delaware Avenue to be opened from Chestnut street to High street, and they deemed it proper that the principle upon which one square can be opened should be tested before it would be necessary to proceed with any other.

Mr. Worrell, for the committee on Schuylkill wharves, made the following report.

To the Select and Common Councils of the City of Philadelphia.

The committee having charge of the Schuylkill wharves, in compliance with a resolution of councils passed June 16, 1834. Report:

That the improvements made under the supervision of your committee, at Chestnut street landing, on Schuylkill, are as follows, viz:

There are two store houses erected on Beech street, each 60 feet front, by 80 feet in depth, three stories high, with a lock gate, and a chamber extending from the Schuylkill line to Beech street, about 200 feet, opening under a part of both stores 40 feet wide, to which there is attached a superstructure of side walls and roof 72 feet long by 75 feet wide, forming a covered dock, for the facility of trade either by day or night, in wet or dry weather, embracing a substantial wharf to each store of about 100 feet fronting on the river, and by removing the mud or earth they have increased the depth of water sufficient to accommodate vessels engaged in the coasting trade. They have also erected a wharf and dock on the west end of Chestnut street, on which they have affixed a hoisting crane, for the convenience of discharging heavy articles.

They have also placed in the stores, suitable fire-props, and the necessary machinery for hoisting and weighing, on the whole of which they have effected a perpetual insurance of \$15,000.

There are also two additional wharves and one lock gate, extending from Schuylkill Front up to Beech street, about 40 feet wide, for the use in common of both wharves all finished and dressed off, not yet rented. On one of these wharves is erected a suitable brick counting-house.

The streets in the vicinity being curbed and paved, there is exhibited in that part of the city a satisfactory and handsome finish, which has given considerable spur to the business and improvements in the neighborhood, and will give additional value to the extensive property of the city.

The following are the items of expenditures pertaining to the stores and above described, viz:

Removing coppering, and stone wall in front of the old basin, clearing out the same, and clearing away for foundation in the spring and summer of 1832, preparatory to commencing the stores,	
Amount to	3,700 87
Amount paid to Samuel Reese, for taking down old engine house and removing rubbish, corner Schuylkill Front and Chestnut street	1,031 38
Amount paid Mr. Donaldson for scow, purchased for the use of the work	160
Amount paid Mr. Walker for removing mud from docks and ends of the wharves	1,396 25
Amount paid R. Peters for hire of scow	170
Amount paid for 6 sets hoisting machines	330
Amount paid for 2 patent scale beams and dishes	140
Amount paid for insurance on \$15,000	384
Amount paid for erecting storehouses, building wharves, docks, counting house, &c.	52,051 21
	<u>\$59,363 71</u>

To pay which sum there was drawn from the City Treasury	41,363 71
Girard Fund	18,000
	<u>59,363 71</u>

The storehouses are to be credited as follows:

Amount paid to the City Treasurer by J. W. Shinn, Clerk for old iron, old lumber, &c. sold,	325 33
Amount due by the Philadelphia Ice Company, for pol.s, &c.	71 58
Amount due by the Watering Committee	16
Amount due by the Girard College,	412 91
	<u>\$58,950 80</u>

Which being deducted from the above amount leaves \$58,950 80, the actual cost of the buildings.

The present income derived from the stores including the wharf at the end of Chestnut street, is per annum

4,400

The receipts for wharfage on the two wharves not rented average per annum,

600

5,000 00 which

is an interest of about 8½ per cent, on the money expended, as above.

The two wharves not rented will probably produce \$1800 per annum when rented. The rent of the whole will be upwards of 10 per cent on the amount expended in the improvements.

Your committee further state that the occupants of the stores are desirous of some further improvements by erecting sheds, &c. upon which cost they will pay a liberal interest in form of rent, which the committee are disposed to make as may seem to them proper for the joint interest of parties.

Mr. McCreedy, submitted the following resolution, which was agreed to.

Resolved, That the committee on Schuylkill wharves are hereby authorized to make such improvements to the city property at Chestnut street on Schuylkill, in

the form of sheds, &c. as may be deemed suitable for the accommodation of the trade.

Mr. Worrell, from the committee on Schuylkill wharves, made the following report.

The committee on the city property on the river Schuylkill, report, That in obedience to a resolution of Councils, passed on the 18th of May last, they have paid due attention to the subject referred to them, viz: the situation of the city property, west of the Schuylkill. The committee finding that the leases of the different tenants would expire on the 1st July, 1834, instructed the City Solicitor to notify each tenant to deliver, possession to the city on the expiration of his lease, with the view of holding the legal right to repossess themselves of the demised property.

The committee upon a further consideration of the premises have thought it advisable to recommend a plan or plot exhibiting lines for building lots of 50 feet each, fronting on Market street, by 220 feet deep to a 60 feet wide street, with back lots of similar fronts and that these lots be sold out on ground rent, at a suitable time, redeemable at will or some given period of years. That portion of the ground east of the 50 feet road, a street leading to the upper bridge, being now thrown into a very irregular shape by the canal around the bridge. Your committee have not attempted to divide except by the aforesaid 60 feet street, which plot cannot be well detailed until the canal is completed, and it is ascertained what ground may be required for its use.

The plan or plot referred to was drawn by Samuel Hains and is annexed to the report for examination and future consideration of Councils.

All of which is respectfully submitted.

Mr. Price, in his place, submitted an ordinance, appropriating the sum of \$282 in aid of the Schuylkill Hose Company, which was adopted, and concurred in by Common Council.

Mr. Lewis, from the Board of Directors of the Poor Tax, to whom was referred a communication from the Commissioners of Moyamensing, in relation to the subject of maintaining the poor of their district, made report that the Legislature of the state, alone, have jurisdiction of the matter. The Committee were discharged from the further consideration of the subject.

#### COMMON COUNCIL.

Mr. Gilder, from the paving committee, reported an ordinance for altering the width of the foot-way along Broad street, opposite Penn Square, so as to conform with other parts of said street, which was agreed to.

Mr. Huston, from the committee on Lighting and Watching, made the following report.

The committee on Lighting and Watching, having been instructed by councils, to inquire into the present mode of lighting and watching the city, and to report whether any and what alterations are necessary therein make the following report:

For several years past, a large number of citizens have strenuously urged upon Councils the expediency of lighting the city with Gas, instead of Oil; and accordingly on the petition of "H. D. Gilpin," "Edwin T. Scott," "M. E. Israel" and others, the Councils of 1831-2, passed a joint resolution to that effect. That the administration of the city having been changed by the following election, instead of that plan being carried out, new investigations and a fuller examination of the subject were undertaken, the results of which are not yet fully developed: and the committee are unanimously of opinion that until the agent sent to Europe to collect facts on this subject, shall have made his report, so as to enable Councils either to adopt or reject the plan altogether, it will be inexpedient to make any material change in the present mode.

In respect to the present police system, the committee are of opinion that it is susceptible of improvement in several important particulars, calculated not only to render it less expensive, but better adapted to the wants of the community; but at this late period of the labors of the present Councils, and during the general excitement which necessarily exists immediately preceding a general election, they forbear to propose any new plan or even modifications of the existing one, but advise that the subject be recommended to the early attention of next Councils.

The Committee have likewise had before them the petition of William Dicks, referred to them by Councils.

On inquiry they find that the petitioner, who is stationed as a watchman in Spruce street, near the Delaware, on the night of ———, arrested a man for stealing; and in doing so was stabbed in several places, and that notwithstanding this severe injury, he persevered, and, at the peril of his life, secured the prisoner. To remunerate him for his suffering and expense, and as an acknowledgment of his faithfulness, the committee recommend the passage of a resolution herewith presented, granting him one month's extra wages.

Resolved, That the Mayor be requested to draw a warrant in favor of William Dicks for the sum of twenty-eight dollars, to be charged to appropriation No. 5.

The committee on lighting and watching are also of opinion that the present mode of keeping the oil for the public lamps, is exceedingly wasteful and cannot well be remedied without having a cellar properly fitted up for the purpose; and as this would be attended with considerable expense, the cellar should either be owned by the city, or held on a long lease.

The building at present occupied as a watch house for the western part of the city, being now offered for sale by the owner, it is likewise necessary to provide another for that purpose; the committee therefore recommend the adoption of the following resolution:

Resolved, That the city commissioners, under the direction of the committee on lighting and watching, be authorized to take a lease for a term not exceeding 15 years, suitable accommodations for the western watch, together with a cellar properly fitted for keeping oil: Provided that the annual rent of the whole shall not exceed five hundred dollars.

Mr. Chandler, from the committee on Public Squares, made the following report.

The Committee on Squares report:—

That they have made arrangements for placing an iron fence with suitable stone basement on the south and east sides of Franklin Square, which will be finished this season.

They have caused Logan Square to be levelled and laid out according to a plan furnished by Mr. John C. Trautwine. The City Commissioner had, at the time of his death, a number of hands employed in laying out Rittenhouse Square in a manner to correspond in general appearance with Washington Square, with reference to both walks and trees. The petitions and remonstrances of sundry citizens, for and against the granting of a public square to the military, was under consideration when the committee were met with the following resolution of the Councils of 1831.

Resolved, By the Select and Common Council that the Committee on Washington and Rittenhouse Squares be, and they are hereby directed as soon as practicable, to cause Rittenhouse Square to be filled up to the necessary height, regulated and prepared in such manner as to render the surface thereof suitable for a public walk; to cause a good and substantial open fence to be placed around the same, and also trees to be planted in, and outside; along the margin thereof, so as to shade the walks, on the street which bound the said square, and that the committee be directed to open the same, for the use of the volunteers, military or any

other citizens on all suitable occasions, subject, nevertheless, to such regulations or restrictions as Councils, may from time to time think expedient to adopt.

The consideration of the petition from the Philosophical Society was deferred, and is recommended to the consideration of the next Councils.

The petitions of citizens that Rittenhouse Square be planted with trees, was effectually answered in the plan of improvement which the committee adopted with reference to that square.

The communication of the German Reformed Church had reference to a subject about to be litigated, between the city and that corporation, and no action was had thereon.

Mr. Byerly, from the committee to whom the subject was referred, made the following report.

The committee appointed under resolution of Councils to ascertain the rights of the city as trustees of a bequest made in the will of Samuel Scottin for providing annually \$12 worth of bread for the poor. Report that they have had the subject under consideration, but owing to the legal difficulties arising have not yet come to any satisfactory conclusion; they therefore propose a resolution.

That the subject be recommended to the early attention of next Councils.

#### PENNSYLVANIA COLLEGE.

The first annual commencement of this young and prosperous institution was held on Wednesday last, (at Gettysburg.)

At 10 o'clock, A. M. the procession was formed in front of the college building, and proceeded in the following order to the German Church.

1. The Trustees of College
2. Faculty and Teachers.
3. The Graduates.
4. The Under-Graduates.
5. The citizens generally.

The exercises of the occasion were as follows:

1. Music, by the Euterpean band.
2. Prayer, by President Krauth.
3. Latin salutatory, by William Smith, of Georgetown, D. C.
4. Oration on Greek Language and Literature, by J. B. Bacon, of York, Pa.
5. Music.
6. Oration on "the Spirit of the Age," by E. Keller, of Middletown, Md.
7. Oration—"Pleasures of Science",—by Theo. Storke, of Salisbury, N. C.
8. Music.
9. Oration on "Fictitious Writings," by M. G. Dale, of Lancaster, Pa.
10. Valedictory—by D. C. Bernitz, of York, Pa.
11. Solo—by Mr. Heerbruegger.
12. Conferring of Degrees, and Baccalaureate Address by the President.

In regard to the exercises in general, it is but naked justice to all concerned to assert, that they fully justified the highest expectations of the friends of this institution; and would not suffer from a comparison with those of a majority of the Colleges in our country.—Where all acquitted themselves with so much honor to themselves and their instructors, it would be inappropriate to make any individual remarks.

The Baccalaureate Address of the President to those who were about to go forth into the world, as the first fruits of Pennsylvania college, was solemn, able and learned; and presented additional proof of his high qualifications for the important station to which he has been called.

Much important business was transacted by the Board. Arrangements were made for the accommodation of a larger number of the younger pupils under the eyes of

persons appointed to take charge of them. A resolution was adopted, setting aside \$9,000 of the state appropriation for the erection of a College Edifice, together with \$3,000 to be otherwise raised.

In virtue of another resolution, a portion of the appropriation will be annually applied, still further to enlarge the Library and Philosophical Apparatus.

The thanks of the Board were voted to Wm. Gwynn Jones, Esq. of Baltimore, for his liberal donation of books to the Library; and

Measures were adopted for the enlargement of the funds by private subscription.

The inauguration of the president elect; the Rev. Mr. Krauth, will take place on the first day of next session, the 30th of October; at which time applicants for admission into the institution may present themselves.

By order of the Board,  
S. S. SCHMUCHER,  
ROBERT G. HARPER.

#### DANVILLE AND POTTSVILLE RAIL ROAD.

*Opening of the Danville and Pottsville Rail Road to Girardville.*

Sept. 27, 1834.

On Wednesday last a considerable number of citizens made an excursion from this place for the purpose of witnessing the interesting ceremony of the opening of the Danville and Pottsville rail road as far as Girardville. The distance to this place is about ten miles, and the inclined planes five in number, the longest of which is the Mahanoy Plane, the length being 1625 feet, overcoming a perpendicular ascent of 350 feet.—The remainder of the planes vary from 400 to 800 feet in length, the whole of which were passed over by a number of cars filled with passengers and coal with every facility, and without the slightest accident or interruption, very much to the gratification of the spectators. At the Mahanoy Plane a steam engine of 100 horse power is stationed, by means of which the cars are drawn up, this plane being on the western side of the mountain, and requiring a steam engine. The rest of the planes are all of the self-acting kind, the heavy cars descending carry up the empty cars by means of endless chains revolving at each extremity. The convenience and safety of this simple but effectual contrivance was thoroughly developed on the occasion in question, and gave much satisfaction and pleasure to all who assisted at the ceremony. The time occupied in passing over the Mahanoy Plane was six minutes, and that of the others varying from three-fourths of a minute to a minute and a half. Among the number present were several gentlemen from the Susquehanna, who from the commencement have felt a laudable interest in the success of the enterprise, all doubts concerning which, if any have been at any time entertained, must now vanish forever, the most difficult part of the undertaking being now actually completed.—*Min. Journal.*

From the Wyoming Herald.  
RAIL ROAD.

Mr. Miner,—

The RAIL WAY—the connecting link of the chain of communication between Wilkes-Barre and the cities of Philadelphia and New York, is my theme. I have touched upon the matter in two preceding papers, as introductory. In this, I mean to present the subject in as strong a point of view as I can; and in doing so, avail myself of aid from a much abler hand than my own.

That it is our interest to construct the Rail Road to Wright's Creek, on the Lehigh, and obtain an early completion of the Navigation from thence to Mauch Chunk will be made strikingly obvious by a careful consideration of the following tables of distances.

## FIRST.

## Distance from Wilkes-Barre to Port Deposit.

Nanticoke Dam,	9 miles.
Berwick,	19
Sunbury,	36
Port Deposit,	132

Total, 196 miles.

## SECOND.

## From Wilkes-Barre to Philadelphia, by the proposed Rail Road.

Rail way to Lehigh,	14 miles.
Canal to Mauch Chunk,	26½
Lehigh Canal to Easton,	46
Delaware Division,	60
Tide,	26

Total, 172½

## THIRD.

## From Wilkes-Barre to New York by Morris Canal,

Rail Road,	14 miles.
Canal to Mauch Chunk,	26½
Lehigh Canal,	46
Morris Canal to New York,	101½

Total, 188

## FOURTH.

## From Wilkes-Barre to New York, by Delaware and Raritan Canal.

Rail Road to Lehigh,	14 miles.
Canal to Mauch Chunk,	26½
To Easton,	46
On Delaware Canal,	26
Delaware and Raritan,	60
Tide to New York,	40

Total, 212½

From which it appears, that the great markets of Philadelphia and New York, are nearer to Wilkes-Barre than Port Deposit, which would seem to be our *natural* outlet to the tide market. But in this way *Art* haa or *may* overcome nature so as to bring those cities nearer to us than the tide waters at the mouth of the Susquehanna. The North Branch trade is then secure to this route forever.

It is worthy also of consideration whether the completion of this work would not secure the West Branch trade, or a considerable portion of it, to this route; until the Nescopeck Canal shall be made, (which ought certainly to be done as speedily as practicable) especially the Bituminous coal which shall seek a market in New York, and east thereof. The distance would be much less than by the Union Canal, or Pennsylvania Rail Road from Columbia; and greatly less than that by Port Deposit; the Rail Road to Pottsville and the Schuylkill canal would alone offer a probably successful competition with our work.

It may therefore be asked, with confidence, what greater temptation could be offered to capitalists, than to finish the proposed Rail road and the Canal to Mauch Chunk, connecting the upper Susquehanna and the Lake country with all those noble canals leading to the two chief commercial cities in the Union?

The question here presents itself, how would the completion of these links, opening to us the markets of Philadelphia and New York, effect our chief commodity of trade; our anthracite coal? It is the opinion of practical men, who understand the matter, that it

would be to us of *immense importance*. The following tables are framed, not without care, and approach so nearly to accuracy as to merit attention.

Estimated cost of taking coal to New York.—The New York market is taken, because, confessedly, we could not compete with the Schuylkill mines, in Philadelphia; and, secondly—New York and the country east and north, take three fourths of all the anthracite sent to market.

## FIRST.

## Schuylkill coal to New York,

5 miles Rail road, at 5 cts. \$ 00 25 a ton.

106 Canal to West Philadelphia, toll 1 ct. a mile, and transportation, 1 ct. a mile. 1 06  
15 round to East Philadelphia, 28 to Bordentown,

43 a 1 ct. 43  
43 Canal to Brunswick, toll 1 ct. a mile, and freight ½ ct. } 75  
40 Tide to New York at 1 ct. 40

Mining, 3 95  
60

Total cost, \$ 4 55

## SECOND.

## Beaver Meadow coal mines,

12 miles Rail road to Lehigh, at 5 cts. a mile, 60

8½ Canal Mauch Chunk, Tolls a 1 ct. }  
Freight ½ ct. } 15  
72 to Black's Eddy, a 1½ 1 26  
60 Delaware and Raritan, toll and freight, 94  
40 Tide to New York, 40

Mining, 3 35  
60

Total cost, \$ 3 95

## THIRD.

## Wyoming coal to New York,

10 miles Rail road at 6 cts. 60


26½ Canal to Mauch Chunk, Toll, 1 ct.  
Freight, ½ ct. 46½  
72 Black's Eddy, 1 26  
60 Delaware and Raritan Canal, 94  
40 Tide to New York, 40

Mining, 3 66  
35

Total cost, \$ 4 01

In this estimate it will be observed that the calculation is made from the nearest mines; those in Hanover or the lower part of Wilkes-Barre, four miles advanced on the Rail way. Mines at a greater distance will, of course, be subjected to additional expense. It will also be seen that less is set down for mining here, than in Pottsville, or Beaver Meadows. In the first place, here provisions are plenty on the spot. At those places comparatively desolate and sterile, provisions are scarce and dear: Again, our mines lie near the surface, and are comparatively level, regular and undisturbed and free to work. It may be confidently stated that when it is in extensive demand, at many of our mines coal can be raised at 25 cents a ton.

Doubtless the Mauch Chunk mines have an advantage over all others; but they cannot supply the whole demand. Coal in New York; will not probably be ever less than from 5 to 6 dollars a ton, and at that price we could take ours to that city, turning it into money at a living rate if not with great profit.

But in addition to this I have an important suggestion to make. A model has been formed by a skilful Engineer, and a practical man, for a Rail road across to the Lehigh  BY WHICH LOADED BOATS OF 30 TONS BURTHEN MAY PASS—so that, coal boats may start from any part of the Valley canal and go on to New York city; for I mentioned in a former number, that a Boat had gone from Mauch Chunk to the Wharf in New York with ease and safety, having a cargo of fifty tons of Coal.

It is very clear that it is the interest of the People in Luzerne and of the Lehigh Navigation Company to have a good understanding: But united efforts or discordant action, they may mutually advance or mar their own, each others, or the public interest. That Company has nobly accomplished a most noble work.—Those that conceived, planned, and executed that work deserve the public gratitude. But there may be or be thought to be, some points of conflicting interest between them and us. Certainly there are vast, numerous coincident interests. Just, liberal, and conciliatory councils, would do away all misapprehension in an hour; and united efforts would insure the happiest results.

A CITIZEN.

From the National Gazette.

#### ADMIRALTY DECISION.

*In the District Court of the United States for the Eastern District of Pennsylvania.*—September 1, 1834.

DAVIS & LEHMAN VS. THE NEW BRIG.

This was the case of a Libel by material-men filed in the Admiralty Court, Wm. S. Davis and George W. Lehman, against a new brig, built and owned in Philadelphia, for work done and materials furnished in the building and equipping of the said brig. The vessel was taken into custody of the Marshal, under process of attachment, and Jacob Tees, as owner, put in a plea to the jurisdiction of the Court, alleging that this being a domestic vessel the case was not within the jurisdiction of the Admiralty Court, and that the suit should have been instituted in the District Court of the city and county of Philadelphia, to which court cognizance of such cases is given by the laws of Pennsylvania.

To this plea the Libellants demurred, and after argument, the Court over-ruled the plea.

HOPKINSON, J., delivered his opinion as follows—

The libel in this case sets forth that at sundry times between the 6th day of September, 1833, and the 7th day of July, 1834—at the request of Jacob Tees, who was employed in building a new Brig in Delaware river, in the said District, the libellants did provide, furnish, and deliver certain enumerated materials, and did perform certain work and labor for the use of the said brig—which were necessary in the building, fitting, furnishing and equipping her for her safety and navigation on the high seas; particular accounts of the said work and materials, and their cost and value are annexed to the libel. It is further set forth, that although the brig is not yet completely finished, and hath not yet proceeded to sea, nor received any name whereby to distinguish her, the owners are about to send her out of the District, as the libellants fear, without paying for the materials, and work and labor furnished and performed by the libellants; and that they have not accepted any other security for their said claims than their liens on the said brig, which they have not consented to release—the prayer is for process of attach-

ment against the brig, and a decree of condemnation for the payment of these claims.

The defendant, Jacob Tees, has put in no answer to the libel, nor denied any of its charges, but leaves the case of the libellants to stand as they have stated it. But assuming or admitting the facts set forth in the libel, he alleges that this court has no jurisdiction over the matter of complaint, to grant the relief prayed for, and ought not to take further cognizance of it, because that the new brig referred to in the libel, has been built at the city of Philadelphia, where the said owner resides; that by an act of the Legislature of the state of Pennsylvania, passed on the 27th of March, 1784, and a supplement thereto passed on the 9th February, 1793, it does not pertain to this Court, nor is it within its cognizance at all to interfere or hold plea respecting the said brig; but that the said cause of action if any accrued to the libellants, accrued to them at Philadelphia, within the jurisdiction of the District Court of the City and County of Philadelphia, and not within the jurisdiction of the District Court of the United States for the Eastern District of Pennsylvania.

The ground of the objection to the jurisdiction of this Court is, that the brig in question is a domestic vessel, belonging to owners residing in this district, where she was built, and the work and materials for her use furnished;—that no lien is given by the general maritime law upon the brig for work and materials so furnished, and consequently that this Court has no authority to enforce this claim against or upon the body of the vessel. The subject matter of the controversy generally determines the question of jurisdiction. The act of Congress constituting the Courts of the United States, gives to them cognizance of "all civil cases of admiralty and maritime jurisdiction," and this grant certainly comprehends all maritime contracts, and a contract which "relates to the navigation, business or commerce of this sea," is of that description. In the case of *De Lovio vs. Boit*, 2 Gallison, 475, Judge Story says that "all civilians and jurists agree, that in this application, (maritime contracts) are included, among other things, contracts for maritime service, in the building, repairing, supplying and navigating ships." In the case of the *Jerusalem*, 2 Gallison, 347, the same Judge repeats this doctrine as to the general jurisdiction of the Court of Admiralty, over all maritime contracts, and particularly in favor of material men. But it is obvious that this does not decide our case, as the jurisdiction of the Court over the case or claim may be admitted, and the relief now prayed for, denied. The proceeding here is *in rem*, against the brig, and not *in personam* against the owners or persons making the contracts. This brings us to the question, whether in case of a domestic ship, built or repaired where the owner resides, material men have a lien upon her, as a security for their payments, for if they have such lien, there can be no doubt that it may be prosecuted and enforced in this Court. Judge Story in the case referred to, says that there are great authorities on both sides of the question, and that "upon principle, independent of common law authorities, there is much room to doubt." He adds, that "be this as it may, it cannot affect the question of the jurisdiction of the admiralty in such cases, for that stands altogether independent of the doctrine of liens, and may be enforced as well by process *in personam* as *in rem*."

The Supreme Court of the United States, the authority which must govern the judgment of this Court, has, happily, afforded us a guide for our opinion. I refer to the case of the "General Smith," 4 Wheat. 438. The ship was an American vessel, and was formerly the property of G. P. Stevenson, a merchant of Baltimore, and a citizen of the United States. Whilst she so belonged to Stevenson, the libellant, a ship chandler of Baltimore, furnished for her use various articles of ship chandlery, to equip and furnish her, it being her first equipment, to perform a voyage to a foreign country. The ship departed from Baltimore, on the

voyage, without any express assent or permission of the libellant, and also without objection on his part, or any attempt to detain her, or to enforce any lien which he had against her for the articles furnished. She continued to be the property of Steven-on, during the voyage and after the return, and was not sold until the 3d of October, 1816, when he executed an assignment, being obliged to stop payment, to the claimants, of his property, including the ship, for the payment of duties to the United States, and for the satisfaction of other creditors, &c.

Another libel was filed 11th November, 1816, by the administrator of Thomas Cockrill, deceased, for iron, materials, and work furnished to prepare the said ship for navigating the high seas, &c.

The District Court of Maryland ordered the ship to be sold, and decreed that the libellants should be paid out of the proceeds, the amount of their demand for materials furnished. The Circuit Court affirmed this decree, *pro forma*, and the cause was brought by appeal to the Supreme Court.

Mr. Pickney, for the appellants, admitted the general jurisdiction of the District Court, as an Instance Court of Admiralty, over suits of material men *in personam* and *in rem*, but denied that a suit *in rem* could be maintained in this case, because the parties had no specific lien on the ship for supplies furnished in the port to which the ship belonged. That in case of a domestic ship, mechanics have no lien upon the ship itself for their demands, but must look to the personal security of the owner. Had the suit been *in personam*, there would have been no doubt of the jurisdiction, but there being no such local law, or specific lien to be enforced, there could be no ground to maintain a suit *in rem*. This is the ground taken in support of the plea in our case.

Justice Story, in delivering the opinion of the Court, declares that the Admiralty rightfully possesses a general jurisdiction in cases of material men; and that had the suit been *in personam*, there would have been no hesitation in maintaining the jurisdiction of the District Court; but that now the proceeding is *in rem*, to enforce a specific lien, it is incumbent on those who seek the aid of the Court, to establish the existence of such lien in the particular case. That in case of repairs or necessities furnished to a foreign ship, in a port of a state to which she does not belong, the general maritime law gives the party a lien on the ship itself for his security, and he may well maintain a suit *in rem* in the admiralty to enforce the right. But in respect to repairs and necessities in the port or state to which the ship belongs, the case is governed by the municipal law of the state; and no lien is implied unless it is recognized by that law.

These doctrines, so clearly explained, are confirmed by the same Court, in the case of *Peyroux and others vs. Howard et al.*—7 Peters, 324.

The law of the case being thus settled, the question that remains for us is, whether by the local law of Pennsylvania, the libellants have a lien on the brig labelled for the satisfaction or security of their claims. Of this there seems to be no possible doubt, either on the words of the act of the Legislature of that state, or the unvaried practice under it,—by which proceedings in the manner prescribed by the act, have been prosecuted *in rem* against the body, tackle, &c. of the vessel from the time of the passing the law, to the present day.

By the act of 27th of March, 1784, it is enacted that "Ships and Vessels of all kinds, built, repaired, and fitted within this state are hereby declared to be *liable and chargeable* for all debts contracted by the masters or owners thereof, for or by reason of any work done or materials found or provided by any carpenter, blacksmith, mast maker, boat-builder, block-maker, rope-maker, sail-maker, rigger, joiner, carver, plumber, painter, or ship-chandler, for upon and concerning the building, repairing, fitting, furnishing, and equipping

such ship or vessel, in preference to any and before any other debts due and owing from the owners thereof." If any thing can add strength to this language in creating a lien, it will be found in the circumstance, that the language used in the New York Statute on the same subject, is substantially the same, declaring that the vessel shall be liable, &c. and no doubt has been entertained in the construction of the Statute, that it gives a lien. These observations are made, although they may seem unnecessary, because it has been denied in the argument for the defendant, that the act of Pennsylvania raises a lien for material men, but that it only gives them a preference over other creditors. This law of Pennsylvania was passed subsequent to the adoption of the present Constitution of the United States, and when the state had her own Court of Admiralty, and directs that the libel shall be filed in that Court *against such ship or vessel*, her tackle, &c., "whereupon process shall issue, and such proceedings shall be had as are usually had in the Courts of Admiralty, for the recovery of mariners' wages and other debts, actually contracted upon the high seas, and within the jurisdiction of the Court of Admiralty." So the law of Pennsylvania stood for the creation of the lien and the manner of enforcing it, when she had a Court of Admiralty. By the Constitution of the United States, and the provisions of the Judiciary Act, passed in pursuance of it, cognizance was given to the Courts of the United States, of "all cases of admiralty and maritime jurisdiction," and the State Admiralty Courts ceased to exist. It became necessary for Pennsylvania, still believing that "the business of ship building was a very important branch of the commerce of the State," to provide some other jurisdiction and means for "securing the persons employed in building and fitting ships or vessels for sea, by making the body, tackle, &c. of such ships and vessels liable to pay the several tradesmen employed in building and fitting them for their work and materials." A law was therefore passed on the 9th of February, 1793, enacting that the libel authorized by the former act, to be filed in the Court of Admiralty of this state, may be filed in the office of the Prothonotary of the Court of Common Pleas of the county; who is to issue an attachment, directed to the Sheriff, to arrest and detain the vessel, and the Court is to make stipulations, &c. Thus the whole proceeding to enforce the lien, is transferred from the Admiralty to a common law Court, in which questions of fact have always been tried by a Jury, and the Constitution of Pennsylvania expressly declares that "Trials by Jury shall be as heretofore."—In conformity with this declaration, the act of February, 1793, instead of directing as the former act did, that "such proceedings shall be had as are usually had for the recovery of mariners' wages," &c. provides that "where in any cases occurring under the said act, questions of fact shall arise, an issue or issues shall be joined by the parties under the direction of the Court, and shall be tried by a jury," &c.

The argument then of the defendant in this case, in support of his plea to the jurisdiction of the Court, is reduced to this; that as the Court has cognizance of the case only by reason of the lien given by the local law of Pennsylvania, the jurisdiction of this Court must be governed and exercised according to the provisions of that local law; and as it is exercised by the Courts of Pennsylvania; that is, by a trial of questions of fact by a Jury—Now if this argument were sound, it would not support the plea of the defendant, which objects not to the course of proceeding in this Court; nor to the mode of trial; nor suggests that there are any questions of fact for a jury to pass upon, but broadly to the entertainment of the suit by this Court in any way or by any mode of trial. But the argument is not sound. When Pennsylvania had her Court of Admiralty, to which cognizance of these cases was given, she said nothing in her act giving this lien and prescribing the manner of enforcing it of a Jury, but the

whole proceeding and trial was to be had according to the usage of the Admiralty Courts for the recovery of mariners' wages and other debts actually contracted on the high seas. When her Court of Admiralty ceased to exist, and she was desirous to continue this security and remedy to mechanics and tradesmen, for finishing work and materials for a ship, she was obliged to bring them into her Common law Courts, and, of course, to conform the proceedings and trial according to the usage of those Courts. But when the case comes rightfully into a Court of Admiralty, it is to be conducted, tried and decided according to the usage and practice of that Court. This Court obtains its jurisdiction over the case not by any grant express or implied from the legislature of Pennsylvania,—that could not be,—but incidentally, as a consequence of the lien given by the local law of the state upon the vessel for the satisfaction or security of the debt and claim of the libellants. The jurisdiction being thus rightfully obtained over the claim or cause of action, it must be exercised, not as such a claim would be prosecuted in the State Court, having also jurisdiction over it, but in the manner in which cases are prosecuted and tried in a maritime Court. Each Court exercises its jurisdiction in its own way; according to its own law of proceeding. The jurisdiction is concurrent; the mode of trial to be regulated by their respective usages and practice. So it is in other cases—the common law Courts of the state have a concurrent jurisdiction with the maritime Courts of the United States for the recovery of seamen's wages—for damages for assault and battery, and other trespasses committed on the high seas, &c. If the party in such a case goes into a state Court, his cause is tried by a Jury or other cases are tried there; but if he comes into the Admiralty, he must submit himself and his cause to the Judge, because such is the law and usage of that court. The mechanic or material man, who has built, repaired, or furnished supplies for a ship, has his election in Pennsylvania, to go into the State Court, or into the District Court of the United States, to prosecute and recover his claim, and having made his election, the defendant must follow him into the Court he has chosen, and both must submit to the course of proceeding and trial used in that Court.

The plea to the jurisdiction is, therefore overruled  
**BAYARD and GERHARD, for Libellants.**  
**HAZLEBURST, for Respondent.**

#### DELAWARE AND RARITAN CANAL.

*Trenton, Sept. 20, 1834.*

The depth of water appears to be sufficient to pass coasting vessels from the Delaware to the Raritan.—The New York papers mention the arrival of the Schooner Sarah Ann, loaded with dry goods, in 48 hours from Philadelphia, via Delaware and Raritan Canal. The business on the canal appears to be rapidly increasing—and the novel scene of masted vessels gliding through the cornfields and woods, or lying in the basin on the eastern side of the town, or at that on the feeder on the west (north of Quarry street,) is presented to our view.

We trust and hope, that this great enterprise will soon prove profitable to those who have adventured their property in it.

From 60 to 70 boats and vessels passed the lock in Trenton this week.—*State Gazette.*

#### RIOT.

*COLUMBIA, Oct. 4.*

Thursday night last was one of bustle and alarm to all classes of our citizens at one hour or another, such as we have not lately experienced; the fury of disorderly men and the ravages of the destructive element of

fire, conspired to make it a season of confusion and terror. About 12 o'clock a mob which had collected began their operations by stoning, forcing into, and destroying the interior, and furniture of several houses inhabited by coloured persons. Four dwellings were more or less broken and injured, the goods were scattered about and destroyed; one of the inhabitants, a black man, was severely bruised, cut in the face, and had one of his arms rendered powerless; and other violence was done to the persons and property of the class of people to whom he belonged. These riots continued about an hour, and amidst great noise and shouting, and the sound of missiles coming in contact with the buildings, disturbed the rest of the citizens adjacent to the scene of action. The exciting cause of this exhibition of illegal tumult and devastation, was the reported recent marriage of a black man to a white woman, which re-kindled the smouldering ashes of former popular madness, and afforded an opportunity to evil-disposed individuals, to re-act past occurrences of disorder and destruction. They however did not stop when they had punished the object of their wrath, but spent the residue of it upon others who had committed no fresh acts which called for punishment.—*Spy.*

#### PENNSYLVANIA HOSPITAL.

10th Mo. 1st, 1834.

Quantity of rain which has fallen in each month of the present year.

1st,	2.49 inches.
2d,	2.22 "
3d,	2.02 "
4th,	2.83 "
5th,	3.52 "
6th,	3.99 "
7th,	4.35 "
8th,	0.62 "
9th,	3.57 "

#### THE REGISTER.

PHILADELPHIA, OCTOBER 11, 1834.

The Ward Elections for Inspectors and Assessors, took place on Friday, under more than usual excitement, which led in some instances to scenes of violence, and in one case to the unfortunate death of an individual.

The second track of the Columbia rail road was opened on Tuesday last, and the cars reached the city about half past six. His Excellency Governor Wolf and suite were among the number of passengers. The Governor was received at the Broad Street House into a Barouche drawn by four grey horses, and conducted to his lodgings at Mrs. Yohe's, where he spent Wednesday in receiving visits, and again departed on Thursday.

Mr. Mills made another successful ascension from Camden on Monday last, and returned safely to the city in the evening, having travelled about 8 miles.

In our present number will be found some proceedings in relation to a proposed settlement to be made at Bassa Cove, under the direction of the Young Men's Colonization Society of this State, who have chartered a vessel for the purpose of conveying the settlers to Africa.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

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INAUGURAL ADDRESS,  
BY THE REV. J. P. DURBIN, A. M.

*Delivered in Carlisle, September 10, 1834, upon the  
re-opening of Dickinson College.*

Gentlemen of the Board,  
Friends of Dickinson College,  
and Citizens and Visitors generally:

In obedience to an ancient and respectable custom, I avail myself of the present appropriate occasion to make a few remarks upon the general question of education, and the particular condition and prospects of this Institution.

If it were possible to separate the prosperity of religion from the influences of education, there can be no doubt but that education would be the second great interest of mankind, as Christianity is the first. But as such a separation, from the very nature of the case, cannot be effected, the value of education is enhanced in proportion as it advances, enlightened, experimental, and practical piety. Education, therefore, which has not due respect to our moral powers and religious obligations, should never be considered or attempted. Yet it need not be regarded as wholly or mainly applicable to these objects. The extent of its application on this case, is to be determined by the necessary connection which exists between it, and public and private morals and religion. The main design of a liberal education is, to develop, enlarge, strengthen, and discipline the intellect. But in conducting this interesting process, due respect must be had to the connection between the mind and the body, and the influence of the operations of the former upon the health and passions of the latter. The process should not be so severe or extended as to enfeeble the physical man; and great care should be taken that no elements enter into it which tend to corrupt and enflame the passions.—Hence a seminary of learning should endeavor to educate the intellect, the morals, and the physical powers of the youths committed to its care.

It requires no great effort of the mind to perceive, that a human being, thoroughly educated in these respects, approaches as near the perfection of his nature as his earthly condition will admit; and that, in proportion as a whole population is thus educated, it must not only be more wise and powerful, but more happy, safe, and comfortable in its social, civil, and political conditions. This great truth is attested by the history of ancient and modern nations. Those which have cultivated letters, and the arts and sciences most successfully, have been most remarkable for their wisdom, power and virtue; and the conveniences and comforts which render life pleasant and agreeable. Hence, enlightened statesmen have co-operated with the enterprise of enlightened citizens, in providing the means of education, as nearly as possible, for the whole youthful population. And if a comparison of the relative prosperity, happiness, resources and power of Asia and Europe may be considered in evidence on this great question, it will appear very clearly, that such appropriations from private or public beneficence are the most profitable investments for the mass of the people. The interest which each individual has in the general

and particular results of education, though he himself may not be educated, may not appear so obviously at a glance. But it is demonstrable to the most ordinary capacity in a very few minutes. Does not every farmer, mechanic, merchant, and citizen find his interests in the construction of roads and canals which equalize the value of their merchandize, and their lands and labor, compared with more favorably situated parts? In the production and application of steam to facilitate travelling and commerce? In the improvement of manufactures of every kind, thereby reducing the price of the articles? In the invention of new and the perfecting of old implements of husbandry and house-keeping? Thus augmenting greatly the amount of the conveniences and comforts of life, at the same time reducing the amount of manual labor and fatigue. This interesting truth is lost in the prevalence of the fruits of the arts and sciences. It would appear, if we reflect, that the palace of the prince, during the exile of learning in the dark ages, was destitute of the comforts and ordinary conveniences which are found in the cottage of every industrious poor man in those countries where the arts and sciences have operated on the whole population.

In these remarks, education, or rather the results of the arts and sciences, are considered in respect to our physical condition and wants. But when we consider the influence of education upon the intellect and morals of the pupils, or upon the intelligence and morals of the people, we shall find a still greater interest. It is impossible to say, how far the most illiterate and ignorant member of society is benefitted by the general state of education in the community in which he lives. His condition and opinions are positively and extensively modified and improved. He feels more or less the influence of public sentiment, and hence is led to reject many superstitious opinions and injurious errors, and to adopt more elevated views, without understanding their origin. This is particularly the case in the United States, where the products of genius, the arts and the sciences, are spread before the public, and introduced into almost every house, by the most varied, free, enterprising and prolific press in the world.

If this remote and indirect action upon the great mass of mind, be so extensive and beneficial, what must be the amount of advantage to the pupils themselves? One direct and important benefit is, the conscious pleasure arising from the operations of their own minds while they successfully investigate the laws of the material universe, their own powers and responsibilities, involving the various relations of society; and the character of the Almighty. There is another more obvious advantage, which is generally considered the greatest: it is the ascendancy which the educated have over the uneducated; thus giving them facilities for acquiring influence, distinction and wealth. The single fact discloses the true foundations of a republican government, and the only principle on which the friends of liberty can hope for the permanency of free institutions: that is, the unqualified admission of the sentiment, that, "all men are born free and equal." The action on this great natural truth can be perfect and perpetual only in proportion as the condition of the whole population is elevated and equalized. If a few possess themselves

of the advantages of education, while the great mass is sunk in utter ignorance, they will quickly acquire all the elements of power, and thus subvert the liberties of the people. In order to prevent this, the people must be educated in common schools and academies to such an extent as to enable them to judge correctly of the pretensions, demands, and conduct of those who aspire to instruct or to rule them. This is the only conservative principle in any free government on earth. Let every American citizen, who is jealous of the civil and religious liberty he enjoys, consider well this important question, and not only see that his own sons and daughters are educated, but cheerfully and promptly co-operate with the State, and with patriotic and benevolent individuals in all feasible plans for the education of all the people in the land.

In the preceding paragraphs education has been considered as of public benefit and general application. — But when an individual seeks and obtains a liberal education, he is supposed to have a professional life in view. The course of studies in Colleges is not arranged with respect to any particular profession, but simply with design to develop equally and perfectly, as nearly as may be, the intellectual, moral, and physical powers of the man, and to put him in possession of the elements of general knowledge. At this stage of his education he graduates as Bachelor of Arts, and is prepared to enter upon the peculiar studies of any particular profession; or to extend and perfect his education in detail, in pursuit of the sciences and arts, and literature in general: and thus, according to a reasonable usage, graduates in three years, to the degree of Master of Arts.

In order to bring forth these results, it is necessary to educate the intellect, the moral senses and the physical man. To accomplish this, the collegiate course is arranged, as it respects the branches taught, the extent of the instruction, and the time consumed. There is a general agreement among colleges in these particulars, and Dickinson will not depart from common usage, except, indeed, she may have required a little more than some others for admission; and extended her course somewhat. The Board have established seven professorships, all of which will be filled as soon as the number and progress of the students shall require it, and the finances of the institution will permit. On this point it is believed there will be no difficulty. The Professorships are, —

1. Intellectual and moral philosophy, evidences of natural and revealed religion, and political economy.

2. "Exact Sciences," embracing all the branches of pure mathematics, including optics, mechanics, and astronomy, and such other subjects in natural philosophy as depend directly upon these.

3. "Natural Sciences," comprehending natural philosophy, chemistry, mineralogy, meteorology, geology, botany, and animal and vegetable physiology.

4. "Ancient Languages," the Latin and Greek, Roman and Grecian antiquities.

5. "Belles Lettres," embracing rhetoric and elocution, to which are to be added philosophical, critical, and classical illustrations of the English Language and Literature. It is intended that this shall be a prominent and efficient department.

6. "Modern Languages," French, German, Spanish and Italian. The studies in this department will be optional with the student, or his parents. It is intended to meet the demands of the age, and enable the institution to offer every facility to a complete education.

7. "Law Professorship." This department is to be under the entire control of the Hon. John Reed, and it is expected to open the ensuing spring. There will be a class proper, intended for the practice of the law. — Judge Reed will deliver a regular course of lectures on the general principles of law, and on international law;

and on the constitutions of governments, particularly our own.

The students in college, at proper stages in their studies, will attend these important lectures.

This is an extended and excellent course, designed not only to afford a liberal and solid education to the alumni, but to acquire some splendour and reputation to the State, and the country. It is not deemed necessary to say any thing respecting each particular Professorship, or of the value of the studies contained therein. They are all essential to an accomplished scholar; though it will be admitted that some are more important than others; and it is stated that some are at the discretion of the student or his parents. The arrangement for collegiate lectures upon the general principles of national and common law; upon the prominent features of different forms of government, and the peculiarities of our own, is considered a great improvement. These lectures are not intended to make professional or practical lawyers, but to give the graduates general information upon the most important principles of national and common law, and the science of government. — No text books or recitations will be required. The student may be examined upon the lectures as he hears them; but such examination will not be required for graduation as Bachelor of Arts. It might be desirable to have similar lectures upon Anatomy, and Physiology, and some other branches of the Medical Profession. It is feared that the graduates of most of our colleges return home with but little knowledge in these great departments of science; not sufficient for the ordinary purposes of conversation in intelligent society; or to direct their conduct in common cases which may arise.

Before the internal and domestic plans and interests of the college are noticed, it may be well to advert to the influence which its success will have upon the prosperity of Common Schools. Almost every State has a well digested system of Common Schools; and funds provided for their support. There are children in abundance to be taught, and the States have ample means to pay for their instruction; but where are suitable teachers in sufficient numbers? There is a great and distressing deficiency here. It is earnestly desired, and faithfully intended, that Dickinson College shall supply this lack to some reasonable extent. Special care should be had to the instruction of young men for teachers in Common Schools, when it is ascertained that they incline to this occupation. Thus will our institution co-operate with the State, in carrying fully into effect an excellent system of common and universal education.

The experience of the best conducted colleges clearly indicates, that the government ought to be chiefly, if not wholly paternal. It certainly ought to be so as nearly as the assumed relation between the Professors and students can be made to assimilate to the natural relation existing between parents and children. And this assimilation is much closer between excellent and faithful professors, and good moral and obedient students, than can be ascertained, except upon trial. — The ties are intimate, tender, and strong, and last through life. But since a college is a Christian family constituted by voluntary association, while the government is paternal and gentle, it must also be steady, firm and, when necessary, decisive; so that no one may remain in this family whose presence and conduct are injurious to the members. With these views the Board have very much abridged the Statutes of the College, particularly the chapters on "Crimes and Punishments." All the usual specifications here are left out, and only two or three paragraphs of a general nature are retained.

To preserve the morals, manners, and tempers of the students in a healthful state is very desirable; but how to do this, is a problem which has been of difficult solution. To shut them up in the college where they must board and lodge among themselves, has always been

productive of evils. To allow them to reside wholly among the citizens has been productive of other evils. The medium, therefore, has been supposed the better course. Hence the Trustees have ordained that the students shall lodge in the college, and board in private families.\* This will exclude them from society sufficiently for the purposes of study and discipline; and yet bring them into intercourse with it so as to have a beneficial effect upon their morals and manners, and produce a common interest, to some extent, between the students and citizens. In this arrangement it is absolutely necessary that the students and family sit down to the table together, under the influence and in the observance of the established rules of propriety and private life. If a family consent not to this, it is a sufficient bar to the admission of students: if a student do not conduct himself in strict accordance with these views he should be excluded from the family.

There is no question, connected with the re-opening of Dickinson College, which excites such intense interest as this: *What religious requisitions will be made upon the students?* This shall be answered with all frankness. There will be no further requisition than is stated in the following recent ordinance of the Board:

*Every student shall attend public worship every Sabbath morning, at some church in the borough; and in the afternoon or evening also, unless there is a Bible recitation during the day, under the direction of the Principal.*

Attendance upon public worship during the Sabbath day, will, therefore, be required; but there is not any requisition as to the ministry or church. These are at the option of the student or his parents. The Faculty will see that each student gives regular and respectful attendance, at some church in the borough as required. Thus the students will mingle with the citizens in their attendance upon the worship and service of God.

But while this reasonable liberty is cheerfully conceded to each student, and admitted to be right and proper; it is not to be supposed that Dickinson College will be indifferent to the religious interests of her sons. They will be received as Christian youth, members of Christian families, in a Christian country; and it will be the duty of this ancient and venerable Institution to see that they lose not this character by a residence within her walls. This duty will be discharged faithfully, yet discreetly.

It may be proper to make a single remark upon the financial plans and prospects of the college. The project which the Trustees and friends have marked out, and which they earnestly anticipate and strongly hope will be fully realized, is this: To call upon the friends and alumni of the Institution particularly: and the patriotic, enlightened and benevolent generally, for voluntary subscriptions for the purpose of permanently endowing the Professorships. There is no doubt but this call will be fully answered, as between Fifty Five and Sixty Thousand Dollars have been subscribed already. The funds raised by these subscriptions are to be invested in the most safe and profitable manner, and only the interest used for the current expenses of the school. This plan will ensure it a permanent support, and place it above contingency. The subscriptions are increasing.

It is not to be expected, however, that private be-

nevolence can supply the current expenses of the college, and the additional buildings and apparatus, which must be necessary in a very short time, if reasonable success be attained. For these, chiefly, it is intended to ask the Legislature, at a proper time, for an appropriation to be expended in increasing the realty of the college, which being constantly insured will always remain and be the property of the state.

Among the first additions contemplated from this source is, the foundation of the Manual Labor System, arranged both for profit and health. This system will not only tend to the preservation of health, and to the pecuniary aid of those who may use it for this purpose; but it will reduce the general expenses of the college, and improve the morals and discipline. The accomplishment of this great object has already attracted the particular attention of the Board; and as soon as means can be obtained, the plan will take effect.

It is necessary to have a well organized Grammar School, in which students may be properly prepared for the classes. The Board have not only given special attention to this matter, but have been very fortunate and successful in their plans, and in the selection of Teachers. The Grammar school is in excellent order, and very full.

The time will quickly arrive, when a separate building, with a suitable boarding house, will be necessary for this school. It cannot long continue in the College edifice. The pupils in it which come from a distance, are generally small, and it is not desirable that they should be dispersed through town. They are not competent to take care of, and provide for themselves.— Hence, the Grammar school should be a boarding school for these small pupils from a distance, in which every thing should be provided for them as in a well regulated family. From this boarding school they will remove to apartments in college, upon entering the classes.

It will be perceived from what has been said, that the original character and objects of the college are not changed upon its resuscitation. It is intended to be strictly and entirely literary and scientific. Its doors will be impartially open to the whole population without distinction of sect or party. The earnest desire of its friends is, to make it a public blessing, an ornament to the state, and the pride and glory of the borough.

The success of a college depends, to some extent, upon many circumstances; mainly upon the following:

The wisdom and faithfulness of the Board of Trustees. They ought not only to be the guardians of the Institution, but its patient, warm, and active friends.— They should be parental and judicious in their enactments in reference to the students; liberal and candid in their arrangements and intercourse with the Faculty.

The ability and aptitude of the Professors. Experience has fully demonstrated that a Professor may be an accomplished scholar, and yet an unsuccessful Teacher; owing to his want of tact and facility in communicating instruction. His method of teaching is a matter of great importance. It should be by careful recitation on the part of the student, accompanied with appropriate and full illustrations in familiar and easy conversations by himself. The student should not be restrained from proper and respectful inquiries, but rather encouraged; with comparisons of thoughts and views, both with the Professor and members of the class. Whenever the college shall attain such a condition as will allow of it, each Professor should have an Assistant or Tutor, who should hear many of the recitations, and thus afford him time to prepare Lectures for his classes, in which the subjects will correspond with the progress of the student in his text books.— These Lectures will afford varied and extended views of the subjects contained in the recitations; and will inform the student of the best method of prosecuting his

\* The Steward, who has charge of the College edifice and grounds, resides in the building with his family. His family is therefore considered a *private family* with whom the Students may board. The Faculty regulate the price of board here, though there is no compulsion on the students. There is no occasion to give more for board than the price fixed with the steward, as it is fixed in view of his keeping a respectable table as in other private families in the town.

inquiries; and the authors from which to derive accurate information. This I conceive to be the most perfect system of instruction in colleges.

The good morals and orderly behaviour of the students contribute much to the success of an Institution. Any school, the students of which are remarkable for morality and virtue, will be more successful than others less remarkable in these respects, but more eminent for learning and science. The reason is simply this:—Whatever parents may allow in themselves, they are not disposed to have their sons educated in vice.—And there is a growing disposition in the community to adopt the sentiment; that virtue, purity, and goodness, with a large share of ignorance, are better than universal learning accompanied with depraved principles and bad morals. It is hoped and believed that every student entering Dickinson College will have due respect to his personal reputation, and the glory of his Alma Mater.

The sentiments and conduct of the citizens have some influence upon the success of a college. They may contribute to its morals and discipline, by favoring its government, and discountenancing and removing from the town and neighborhood, as much as may be, all occasions of vice and temptation. In this way the borough will acquire a reputation for morality, virtue, and good order which will contribute largely to the success of Dickinson College. How much the Board rely upon, the citizens in these respects, may be seen in their arrangements for boarding the students, and their attendance upon public worship.

In all this matter, the citizens will find their benefit. The prosperity and reputation of the college should be a matter of pride, as it is the interest of every one. The business and employments of the town will feel the impulse and presence of a successful college, through all the stores, shops, hotels and cottages. But the beauty and convenience of the college grounds and buildings; the apparatus, cabinet, museum, library, and reputation of the school, ought to be the pride and boast of every citizen, and such as shall be mentioned by visitors after they have left the borough, and noticed and admired by the traveller in the stage. It is not doubted but the citizens of Carlisle will give all reasonable assistance to produce these desirable results.

It may be well to remark here, that the legitimate action of the civil authorities in suppressing vice, and thus removing the causes of corruption and temptation from students, will facilitate success.

But the hearty and constant co-operation of parents for the suppression of extravagance in the expenditure of money, and the promotion of strict economy, is one of the most important means of rendering an Institution successful. If parents will supply their sons with money to expend profusely, or for purposes not necessary to their residence at college, they not only corrupt their own offspring, and defeat their education; but they materially affect the wishes and practices of other students, and thus tarnish and destroy the reputation of the school. It will be strictly required of parents and guardians to confine their supplies of money to the reasonable necessities of an ordinary residence at college. The Board have wisely enacted, that whenever a student shall become extravagant in his expenditures, he shall, after proper admonition and forbearance, be dismissed. And it may be well to add, that as the judgment and execution of this matter are committed to the Faculty; they will in no case fail to act discreetly, yet promptly and firmly.

The periodical press has some influence upon the success of a Seminary of Learning. There can be no doubt but that it sometimes speaks too favorably of individual members, or of the general reputation of an Institution. And there is little doubt but that it some-

times censures without cause, or accurate knowledge of facts. The public press should regard a college somewhat in the light of a private family, whose internal interests and concerns are mainly peculiar to itself; respecting which no censure should be made except with great care, and upon the most indubitable information, which should be sought, and not taken from report, or ex parte statements. Recent occurrences, respecting an ancient and celebrated Institution in the east, will attest what is here stated. An unwarrantable censure of a college, in a public paper, however well intended, may inflict a wound which no subsequent explanation or apologies can cure. The press in the vicinity of a Seminary, ought to regard it as a domestic institution; a common fountain from which may issue excellent essays and pleasing contributions to enrich its columns. And as Dickinson College is not, and shall not be, connected in any way, with any political or local question or party, it is particularly desired that the general acts of the Institution, and the particular acts of its administration may be understood accordingly.

The condition of our country, the genius of our civil and religious institutions, and the intrinsic value of Eloquence, demand that the students shall be carefully and correctly taught the principle and practice of good speaking. Special care shall be had, and suitable arrangements made, to cultivate among the students a natural, easy, forcible, and just elocution. Not an elocution of a uniform and marked character, so as to enable one to say, when the graduate is heard to speak, *he is an alumnus of Dickinson College*. But an elocution which shall be the product of deep feeling, inspired by a just and powerful comprehension of the subject. The eloquence of nature directed and chastened by proper instruction and suitable practice.

To attain this great and available result of a liberal education, it may be necessary to allow declamation upon most of the interesting topics which are, at the time, engrossing the attention of the public. If such liberty be allowed, it will be common to all sides and questions; restrained within the bounds of moral propriety of sentiment and language, and personal respect. It will be considered simply as a piece of declamation, recited on the stage, and not as indicating the sentiments of either the speaker, or any member of the Faculty, college, or corporation. This is a liberty which is reasonable, and seems to be necessary to the cultivation of a free, natural, and forcible elocution.—Formal essays, or even powerful speeches on subjects forgotten a century ago, cannot interest the speaker or the audience. But this liberty, if used, will be restrained to recitation on the stage; no original productions of this kind will be allowed. Because these would be considered as indicating personal opinion. Besides, this liberty is not necessary in such compositions; as their originality will give them freshness and vigor.

I desire to add particularly the result of my own observation and experience, on another point: it is this: The presence of ladies and gentlemen, will contribute much to the interest and success of the exercises in public speaking. It excites a healthy emulation and action; wakes up the feelings and calls forth the powers of nature, and affords the student an opportunity of acquiring reputation.

I have thus presented briefly the general question of education, and the plans and prospects of Dickinson College. I indulge the hope that is common to man; that they may be favourably received, and carefully cherished by the public, until this ancient seat of learning may not only attain a reputation equal to itself in any former period, but surpass it in proportion as society and the country have advanced, that it may be an ornament to the state, the delight of this borough, the glory of its friends, and a fountain of sound and useful learning, of extensive science, and of virtue, morality and religion.

## DISCOURSE ON THE ORIGIN OF THE INDIAN POPULATION OF AMERICA.

By B. H. COATES, M. D.

Annual Discourse delivered before the Historical Society of Pennsylvania, on the 28th day of April, 1834.  
Gentlemen of the Historical Society,

In compliance with the suggestion of the venerable president of the society, the subject which has been selected for the present occasion, is the origin of the Indian population of the American continent. A suggestion from such a source must necessarily call forth the best exertions which could be appropriated to its execution. Yet it is with no pretended fear that we approach the task. Standing unconnected, or related only at a remote angle, with the course of professional pursuits, this difficult and far-extended inquiry has occupied the long leisure of erudite men, who have directed to the purpose all the collected force of vast libraries, learned conversation, and the authority of monarchs. Of the results of such efforts how incompetent a sketch could possibly be comprised within the limits of your annual oration? Even impartiality and judgment in selection, the utmost praise of a compiler, are here exposed to risk, by the extent of the research, the difficulty of foreign languages, and the absence of some of the desirable books. To this must be added, if the Society will excuse one more individual allusion, the want of time, and the urgency and anxiety of professional engagements. It is with such claims to indulgence, then, that we enter upon the execution of our allotted labour, an inquiry into the origin of our Indian population.

There is something in the very selection of such a subject calculated to call forth, in a striking manner, our gratitude to the Supreme disposer of things, for the blessings enjoyed by our nation. In search of a subject, we are going beyond the history of our own progenitors. The narrative of our own race, is short, simple, and soon exhausted. Freed, with few exceptions, from those great catastrophes which furnish materials for history and romance, it offers little but a detail of uninterrupted prosperity. It was well remarked by the historian, as a truth repeatedly urged on him while recapitulating the long details of the decay and ruin of the Roman Empire, that history is little but a record of the crimes and calamities of mankind, and that a want of materials to fill the swelling page, is the surest proof of tranquillity, and of public and private happiness. Thus it is with the settlement of Pennsylvania. Its records may be said to exhibit but three events—the primitive foundation, the French war, and the revolution. The rest of our brief period is filled with abundance of every thing that exalts the prosperity and character of a nation, every thing that ministers to human happiness and worth, every thing that can furnish a recollection of the past, in which virtue may take delight, and examples which may be fearlessly trusted for the future; every thing, in short, but the effusion of human blood, the conflagration of cities, and the death of patriots and martyrs upon the scaffold.—Our remaining annals neither glow with military ardour, nor mourn the decline and fall of ancient empires or free and enlightened republics. Nothing appears but the gradual and monotonous growth of uninterrupted and unexampled prosperity.

To abler hands than ours be it then left to select, amid the history of our progenitors, new subjects on which the mind may be excited to the contemplation of former wisdom and virtue. Be it ours to seek, amid the traces of a feeble and ruined race, materials which, however incompetent the manner of their exposition, at least possess, at the present moment, the advantage of greater novelty.

The origin of our Indian population is an obscure and difficult problem. Deprived of the light of history,

or the uncertain but sometimes useful gleams of fable, the materials are to be sought in a few vague and contradictory traditions, in an investigation of the similarity of language, in the form and local arrangements of coats, in the resemblances of different races of men, and in the influence of climate, locality, and habit upon the human form, features, and complexion. In the discussion of these different views, we are continually disappointed by the uncertainty, the contradictions and often the entire nullity of the inferences which they afford. "America," exclaims a recent German writer, "is truly a new world. An immense continent, separated during the thousands of years to which the records of history extend, from all connection with the old, containing numerous tribes and nations of human beings, speaking four hundred languages, the most diverse and frequently the most totally disconnected by the loosest bond of analogy in the derivation of their words, or even in the nature of their grammars, totally in ignorance of the laws and catastrophes of the great nations of European and Asiatic antiquity, unacquainted with each other's existence, except as far as the mere vicinity—every thing presented, on the first advent of the Spaniards, the appearance of entire dissimilarity to all with which they were previously acquainted." Manners, language, customs, habits and traditional history, all were new and unheard of; so much so that writers have been found, nursed and still remaining in the most settled habits of reverence for the sacred writings, who notwithstanding avowed the opinion, that they discovered in America the product of a new creation. And when, in later times and after a wider extent of discovery, the whole habitable circumference of the new continent had become known, Europeans seem to have given the preference, by common consent, to that hypothesis of its population which refers the arrival of the primitive colonists to the very remotest point ever reached in the navigation of the globe. And when we arrive at that point, the difficulty and obscurity of the subject do not end here. Not only are the analogies in appearance between the American Indian, and the direct race of his supposed Mongol progenitor, few, vague and uncertain; not only does the evidence in favour of a similarity of language and manners diminish instead of increasing with the growing extent of inquiry, but we find the very road of communication obstructed. The Aleutian islands, the peninsula of Alaska, and the neighbourhood of Behring's Straits, are found occupied by men of another race, dissimilar in their appearance from either the Mongols or the Americans, and possessing an unquestioned and close analogy in physical characters, and a near resemblance in language to the Esquimaux. Nay, the researches of the modern learned go still farther; and it is now yielded as a settled point among philologists, that, judging from the languages of the vicinity, not only is the evidence wanting that America was peopled through these regions from the Asiatic continent, but there is the strongest reason to believe that emigration took place in the other direction, and that the north-eastern extremity of the older world was actually colonized from the new!

Such and so great is the obscurity which pervades, to the latest moment of inquiry, the question of the origin of our American Indians. We might almost say of this, as has been said of the cholera, that Providence seems to have left it in darkness, with the express object of reminding us of the weakness of the human intellect, and of our dependence upon a higher power. And yet there is much to compensate us in the interest and grandeur of the inquiry—the source of the population of a third part of the world, and that section of the world our own, of the unfortunate heroes of three demolished empires, and of various warlike republics, whose attachment to liberty preserved and asserted their rights, either to the era of final deliverance from foreign invasion, or to that of the utter annihilation of

their lives. The contemplation of such objects is expanding to the mind; and, if the results of our labours be involved in too much mystery, there is an attraction to a just curiosity in the mystery itself. It is pleasant to walk in the track of human intellect, to follow the traces of profound and penetrating apprehension, untiring assiduity and accumulated knowledge, to witness the never-ending and still diversified struggle between the restless mind of man, and the infinite obscurity which surrounds him. The problem of the American population is not solved; but the language of the Alutian islands has now a written grammar, coasts have been surveyed far into the unmeasured recesses of northern frost, and the innumerable dialects of the wandering tribes who range the deserts of central Asia, or haunt the American forests and savannahs have been described, catalogued, and reduced to classification. To men of our own nation, the origin of the fast forgotten races that are vanishing before the axe of civilization, must always be an object of curious and humane interest; and to Pennsylvanians, in particular, the attractions of the subject should be heightened by a consciousness of the oft repeated efforts which their annals exhibit to arrest the progress of devastation by the arts of peace. In no state have more persevering attempts been made to preserve the cruel but generous savage from annihilation, by the authority of Christianity and the protection of industry and knowledge. From the society of Friends have emanated those exertions, crowned with a modest but substantial success, to teach the arts of civilized life to the Indian, the good sense and practical utility of which have attracted the applause of foreign critics; and from the Moravian towns of Pennsylvania have issued those devoted missionaries, who have borne the cross of Christianity and the banner of civilization, in meek usefulness, through every clime, from the frozen deserts of Greenland to the torrid regions of Surinam. Be it allowed to us, then, to feel, in these exertions of our fellow citizens, all the elevated pride which the contemplation of so awful a subject as the diffusion of religion may permit us to entertain.

The study of Indian races possesses also a deep interest as a physiological problem. The new sciences of anthropology and ethnography, closely connected with our subject, and deriving from it some of their liveliest illustrations, are now justly considered as among the most splendid and profound triumphs of the human intellect. Throughout the countless throngs of the American tribes prevail a style of physiognomy, and a configuration of the human frame, which afford a subject of interesting contemplation to the physiologist; while their innumerable languages, exhausting the most persevering labour of the philologist, afford new and enlarged views, in themselves attractive and imposing to the mind, and lending a curious and instructive light to the general mechanism of language. With these encouragements, we shall proceed to the accomplishment of our obscure and doubtful task.

When, on the discovery of America, a crowd of new objects presented themselves at once to the view of the astonished invaders, their first impression was, as it is well known, that the nations and the regions which met their eyes belonged to the same continent with India. Traces of this belief are evident in the names which they imposed; in the denomination West Indies, and in the application, familiar among ourselves, of the term Indians to the natives of this section of the globe. As long as this impression continued, it was not difficult to account for the peopling of the newly discovered territories. These being supposed continuous with Asia, it could hardly be made a question how inhabitants emigrated to them. But after the discovery of the South Sea, by Nugnez de Balboa, and particularly after it was ascertained, by the romantic and adventurous expedition of Magellan, that a vast ocean lay between the new conquests of Spain and the long sought for India, at once arose the difficulty which has since exercised and perplexed so many philosophic minds.

From this moment, inquirers began to lose themselves in a wilderness of conjectures, founded upon loose or solitary analogies, the bare enumeration of which, with the arguments intended to support them, would occupy a space which we can but ill spare, and which may serve to point out the complexity of the subject and the extreme scantiness of evidence. Thus we have authorities in favour of the origin of our Indians from the Egyptians, the Israelites, the Canaanites, the Phœnicians, the Carthaginians, the primeval inhabitants of Spain, the Celts, the Germans, the Chinese, the Hindoos, the Japanese, and the Tartars. Of these, though in an investigation of them, there is much of ingenious conjecture, and wild and romantic narrative, we shall content ourselves, at present, with this cursory notice; and we shall proceed at once to an analysis of what appears best established in probability. It is hardly necessary to add that we shall not attempt to pierce the veil of thick darkness which hangs over the connection of this remote people with the Mosaic account of the colonization of the world. Every attempt of this kind which has been made, and by the ablest hands, has only served to place in a still more conspicuous point of view, the insufficiency of the human intellect when directed to subjects upon which it has not pleased the God of nature to place evidence within its reach.

We are met at the threshold by the theory, that the American narratives are a separate race, and received their being from a different act of creation; a doctrine having its origin as far back as the whimsical Paracelsus, who thought that each hemisphere was peopled by a separate Adam; and which has since received the accession of several distinguished names, and among them of that of Voltaire. It is attempted to be confirmed by the undeniable fact of peculiar animals in great numbers and variety being found attached to our soil. To discuss this question, would lead us far from our object; and we shall, therefore, waive those arguments which prove the human race to have descended from a single original progenitor. We shall only remark, that no reasonable man, who compares the races of mankind, can for a moment fail to observe that the difference in the appearance of the American Indians from the inhabitants of several regions of the old world is incomparably less than that which exists between well known and familiar branches of the population of the latter.—An aboriginal American far more nearly resembles a Malay or an inhabitant of farther India, than the latter approximates either to the white European or to the African. We should, therefore, rather assume a separate Adam for the last-named variety of mankind, or for the Chinese or ultra Gangetic Indian, than for the American. Much, however, need hardly be said to refute a theory which, besides its incompatibility with the records of revelation and with the doctrine of species in natural history, would, if carried out, lead to the assumption of an independent creation of mankind for each one of a dozen detached islands, if not for all those originally found peopled with uncivilized inhabitants. The art of navigation affords an easier solution of the difficulty; a solution which we shall shortly apply to the colonization of America.

In classifying the population of our continent, it may, in the first place, be now esteemed as a conceded point, that the whole extent of the extreme north is inhabited by a people of a distinct race. Greenland, Labrador, the whole northern border of the main land of America, the sea coast adjacent to Asia, including the peninsula of Alaska and the chain of islands projecting from the latter towards the Asiatic coast, together with the portion of Asia immediately opposite, are found in the possession of tribes evidently of a common origin. This is proved by their dwarfish stature, their dark complexions, their flattened faces, evidently approximating to that of the Mongol, their habits of life, and their languages. All live by fishing, all inhale

bit the sea coast, and manifest the utmost unwillingness to leave it, all live in the most barbarous state of society; and all speak either dialects of the Esquimaux language, or at least languages closely approximated to this, both in their grammar and in the derivation of their words. In nearly all these respects, they form a most striking contrast with the adjacent Indian tribes; and most remarkably and absolutely so in the two very important particulars of bodily configuration and language. They are a race entirely distinct, and peculiarly adapted to inhabit the regions of the extreme north, in which probably men of any other origin would perish.

The proximity of land is evidently sufficient throughout the whole round of the arctic circle, to permit a people so nautical in their habits to colonize, in that latitude, the whole circumference of the globe. Not only does there exist the facility, so often cited, of ravaging from Asia to America, or in the opposite direction, by crossing Behring's Straits, aided by the islands which are found in the middle of them, together with the more southerly route of communication, along the chain of the Aleutian islands, and the peninsula of Alaska, roads assigned by so many writers as those by which the progenitors of our Indians reached this continent; but in the direction of Europe the difficulties are by no means insuperable. The communication from Norway to Iceland and Greenland, discovered by the Norwegians in the ninth century, could have been, at a period still more remote, employed, as it then was, for the purposes of colonization. From Greenland, the Esquimaux race appears, according to the observations of Baffin and Captain Ross, to communicate by extended migrations along the chain of islands that skirt the northern coast of the bay which has received the name of the former navigator, until they reach the coast of America. Besides this, there is the additional and easy route across Davis's Straits; a voyage not beyond what could be performed in Esquimaux whaling boats, such as would be capable of serving the ordinary purposes of these adventurous rovers.

The colonization of the northern coast of America, therefore, presents no difficulty in the explanation; the only question which remains consisting in the choice between the eastern and the western routes, or between a European and an Asiatic ancestry. In this the decision is not difficult; the Asiatic route is the shorter, and that which more immediately connects it with an analogous people. Opposed to the American continent are the Tschuktschi; a people in conformation resembling the Esquimaux, of the most barbarous habits of life, and whose language is found by philologists to exhibit a similar origin. In grammatical construction and the derivation of many of their words, the traces of this appear to be too evident for denial. As there are such visible marks of a common origin, the question of the possibility of migration across the arm of the sea which separates north-west America from Asia, is thus at once solved. But it still remains to be investigated in which direction the removal was effected. As the language of a people or race is generally presumed to have received its origin and gained its development in those regions where the inhabitants resided for the longest time in a state of social intercourse, and as this is presumed to take place where the greatest numbers and widest extent of population are met with, this principle, when applied to the present case, would indicate that America was the birth place of this singular variety of mankind, and that the Tschuktschi were, in reality, a colony transmitted to Asia. Enough, however, is observed to show the possibility of a barbarous people performing this journey; and if we can permit our imaginations to revert to a period so ancient as to be prior to the formation of a language, we may easily refer the earliest origin of the race to a Mongolian, or, as usage has styled it, a Tartar ancestry. The analogy to the Mongol population, so commonly ascribed to our

Indians, is with the Esquimaux quite sufficiently visible. The whole conformation of the face and head is the same; the only remarkable difference between them in physical structure consisting in a reduction of stature. This is so natural a result of the action of cold and a deficiency of food in obstructing the development of the human figure, as certainly not to constitute a difficulty; and is, as is well known, common to all the inhabitants of the remote north—the three great races of Esquimaux, Samoyedes, and Laplanders.

The Mongolian origin, and the passage by Behring's Straits, and by the Aleutian islands and peninsula of Alaska, which we have thus attributed to the Esquimaux, have been also assumed as belonging to the whole mass of American Indians. Urged with the genius and taste of the historian of America, Dr. Robertson, this has become the settled opinion within the British islands and in the United States; and on the continent of Europe, though inculcated with less confidence, and with a hesitation which is the offspring of greater knowledge, it is taught and defended by the learned editor of the *Miuhitates*. In the present state of opinion, the various degrees of importance which may be ascribed to this hypothesis, with the different modifications which it may be made to undergo, must naturally form a large part of what remains to be said upon this difficult subject.

There is, then, no doubt of the possibility, and if other objections to this theory could be surmounted, of the very great probability of the original colonization of America from Asia, by one of the two north-west routes already indicated. At the Straits of Behring, the two continents are said to approach so nearly as to make the island which lies in the middle of them visible from both shores. There is certainly no impracticability in performing such a voyage in favorable weather, by means of very rude canoes; and it is by no means certain that, in this high northern latitude, the two sides of the straits have not been connected by ice.—There are so many circumstances under which it is easy to conceive that individuals of a barbarous people, might pass from one continent to the other, that it appears quite unnecessary to resort to any forced hypothesis to account for it. Without feeling any need of the supposition that these two parts of the world were once united and afterwards separated by an earthquake, it may suffice to suggest that hunters and fishers, in want of food, and meeting from various causes, with difficulty in supplying themselves from the productions of their native territory, might become desirous of trying the advantages of the opposite coast. At other times, families in canoes might be blown off by storms. In short, there is no difficulty in exhibiting the practicability of what, as we have above stated, appears to have actually taken place, a migration between Asia and America.

The next argument which suggests itself to our consideration, is that America appears to have been settled by a savage people. "We may lay it down," says Dr. Robertson, "as a certain principle in this inquiry, that America was not peopled by any nation of the ancient continent which had made considerable progress in civilization. Even the most cultivated nations of America were strangers to many of those simple inventions which are almost coeval with society in other parts of the world, and were known in the earliest periods of civilized life with which we have any acquaintance. From this it is manifest that the tribes which originally migrated to America, came off from nations which must have been no less barbarous than were their posterity at the time when they were first discovered by the Europeans. For although the elegant and refined arts may decline or perish, amidst the violent shocks of those revolutions and disasters to which nations are exposed; the necessary arts of life, when once they have been introduced among any people, are never lost. None of the vicissitudes in human affairs

affect these, and they continue to be practised as long as the race of men exists. If ever the use of iron had been known to the savages of America, or to their progenitors, if ever they had employed a plough, a loom, or a forge, the utility of those inventions would have preserved them, and it is impossible that they should have been abandoned or forgotten."

This reasoning is used in favor of the origin of the aboriginal Americans from among the northern branches of the Mongolian race. It is certainly entitled to very great influence in directing our attention, in the present inquiry, not to the great civilized nations of antiquity, at least in the state of refinement in which we meet with them in history, but to savage and uncultivated hordes, or to isolated families of barbarians. If the races who founded any of the empires of the earth, really furnished the original colonists of America, it must have been at a period long prior to historical records, and while they were yet unacquainted with the elementary arts alluded to by the author we have quoted. The principle extends to the art of teaching domestic animals. If the colonists were aware of the luxuries derived by the rudest people from the services of the latter, we cannot suppose that they would have settled a vast continent without either carrying with them some of those they originally possessed, or availing themselves, throughout their widely extended inheritance, of the opportunity of taming those they found there.

The applications of the above argument is obstructed by the fact of the extreme difficulty of selecting a nation of the old world, in a state of destitution of so many of the most simple and necessary arts as the people of our own continent. The race of their proposed immediate progenitors, the Mongolians, is found in our earliest histories possessed of the services of horses and cattle, of some other domestic animals, of iron, and of several mechanical inventions which were not met with among our American Indians. Even the most barbarous tribes of Africa are possessed of iron and acquainted with the services of the horse, and frequently of the elephant. The most refined nations of our continent, the Mexicans and Peruvians, as their inventions proceed, exhibit the strongest marks of having achieved their own civilization. Thus they used volcanic glass as a substitute for iron, arranged their calendar upon a different principle, and made their approximations to the art of writing in a manner, curious and wonderful from its extent and usefulness, but evidently altogether independent of foreign assistance. Where they reduced animals to servitude, these, as the Peruvian Llama, were peculiar to the country, and not the offspring of Asiatic progenitors.—Other tribes, as our own immediate predecessors, were found destitute of nearly all the most common implements of labor, and of all domestic animals, of whatever species, with the exception of the dog. Neither horse, camel, dromedary, elephant, ass, cow, sheep, goat, nor any of the domesticated fowls, were found in the possession of our Indians; and the dog differs so widely from his prototype of the old world as to have been thought a different species.

The comparison with the Mongolian race, in general, thus fails in point of barbarism; and in order to make the argument of Dr. Robertson operate in their favor, it is necessary either to suppose for their migration a time of great antiquity, when these arts had not yet been invented, or to discover a tribe in great and peculiar destitution. The comparison which Professor Vater makes of the Americans, with the Tungoses is applicable here; and we shall take the liberty of using it.

According to the authority of Georgi, as quoted by our author, the Tungoses resemble our Indians in having straight, black hair and little beard, or in some instances none at all. They live in a very barbarous state. A part of them, roaming upon the steppes in their vicinity, are provided with horses, reindeer and

sheep: while those who obtain their sustenance by fishing are deprived of these animals, and possess none but the dog. Various analogies in habits and customs, are mentioned, in which they do certainly agree with many of the American Indians, but not to the exclusion of many other barbarous people. For example, the practice of tattooing, cited by Professor Vater, is known to be common to the South Sea islanders. The comparison of manners appears to us to be such as can be made in many other instances; easily reconcilable with the supposition of a connection, but very far from affording a material proof in its favor. The professor goes on to say that the next tribe to the Tungoses, the Tschuktschi, are destitute of metallic tools, admitting by his language that these are possessed by the former. In short, the arts we have here enumerated, and, with the exception of the Esquimaux, the strongly marked Mongol features and color which this tribe are understood to possess, in common with so many of the inhabitants of Asia, are particulars which are nowhere to be discovered throughout the whole range of the American continent.

The subject of barbarism, which we have just considered, naturally leads to a general comparison of customs and manners; and in this we are compelled, from the necessary limitations of space and time, to omissions so extensive that we cannot reflect on them without pain. A very large portion of what has been written on the origin of the American population has been founded upon points of coincidence in their habitual practices; and these have led a long list of great names to embark themselves in the defence of a series of hypotheses, of which we will not say that each has destroyed its predecessor, but rather that they have all perished, in the lapse of time, from the want of a coherent and permanent character in the materials of which they were composed. To such we are bound to oppose the remark, now generally conceded to be correct by inquirers into the origin of nations, that isolated examples of similarity in manners and customs ought not to be assumed as evidence of a common origin; but that these are merely a proof and consequence of the identity of the human intellect, under all the diversity of circumstances by which it may be influenced. Men of different races, placed in a similar situation, but totally unconnected with each other, will fall upon many of the same practices and observances, guided by no other lights than those which have been individually bestowed upon them by their Creator. Thus it is doubtful whether any tribes exist so barbarous as to be deprived of all sentiment of religion. In many instances, detached and unconnected with each other, men will worship the sun and moon; and will venerate thunder as the voice of a superior being.

*Tarpeis qui sæpe Deis sua thura negarunt  
Inclusum fuscò venerantur cespite fulmen.*

LUCAN.

Nations in the most remote parts of the earth will be found regulating their time by the motions of the heavenly bodies; and from this cause using a division by years and months. If the progress of refinement lead them to a mathematical adjustment of these measures, they will be led to the same corrections; because the same corrections are true, and are therefore the only ones to be made, although they may be expressed or reached by the combination of different numbers. The use of the bow and spear, the feather to the arrow, which gives the weapon augmented accuracy on a refined scientific principle, the art of navigation, and the application of fire to domestic purposes, have been found in situations the most remote and disconnected. Where nations, from the heat of their climate, are in the custom of employing but little covering, a species of savage taste, or a sort of modesty, in imitating clothing, will lead to the practice of tattooing, or of ornamenting the body with indelible marks; and in regions

where monkeys, apes and other anthropomorphous animals abound as familiar objects, and are used for food, the habit thus acquired, together with the indulgence of revenge in war and murder, will occasionally give rise to the horrid practice of cannibalism. The return of periodical prosperity at the accession of spring and harvest, when either the climate moderates, or men gather the fruits of the earth, will yield occasion to the observance of public feasts, and to the giving of thanks to their divinities at such times; and to these they will add the monthly rejoicing at the appearance of the new moon.

On this principle we may account for many of the similarities which have been traced between practices of the American Indians, and those previously known to exist among various nations of the older world. Thus the Mexicans cannot be denied to exhibit a curious and remarkable analogy to the Egyptians in their calendar, in their hieroglyphical writing, in the style of their architecture, and even in the forms of their pottery and sculpture. And yet, although supported by such names as Athanasius Kircher, in addition to those of several other writers, the idea of the origin of Mexican civilization from that of the Egyptians would at present hardly find a single partisan. Suffice it that the Mexicans themselves, in the picture history of their country, distinctly ascribe to the cultivation of their ancestors a duration of only a few centuries; thereby confining it to a period later by a thousand years than that in which the glories of the Pharaohs were interred in the ruins of their pyramids, and forgotten with their hieroglyphics.

Similarities have likewise been traced or attempted to be traced between the subjects of our investigations and the ancient Israelites. The effort has been made, by means of these resemblances, to point out the latter as the probable source of American colonization; referring particularly to the lost tribes, removed by the king of Assyria. This inference is principally founded upon the observance of the new moon, certain regulations respecting cleanliness, &c., and the resemblance in sound of one or two isolated words. Were we to dismiss, with a reference to what we have already said, the observations of our venerable countryman, Elias Boudinot, we should do no more than must be done by William Penn, by Adair, by Charlevoix, and by several other authorities.

We shall not at present pursue this detail; satisfied that the manners of the American Indians, considered as a race of men, are altogether peculiar, and that they bear no resemblance to any other, such as to authorize the least inference as to the origin of the former. The ancient races of mankind, in the older world, possessed, during nearly all the period embraced in history, the use of various metals, tools and domestic animals, together with certain modes of computing time, sufficient, in all, to render it entirely improbable that any of them furnished origin to the unfortunate aboriginals of our continent. We are to look for the sources of the latter, not in civilized and refined masses of men, but in remote, isolated and ignorant barbarians. These might have possessed a knowledge of fire, of navigation by canoes, of the bow, and of the domestic dog; because the latter are found widely extended in America; but beyond these they could hardly have understood any of the common arts of domestic life.

The subsequent civilization of the American Indians bears the strongest marks of having been the labor of their own unassisted minds. The picture writing of Mexico, the greatest triumph of this curious and interesting career, may be considered, we apprehend, as the evident offspring of the painting by hieroglyphic signs with which our Missouri Indians decorate their buffalo robes, and the trees, stripped of their bark, which they employ for the purpose of preserving and communicating intelligence. We should think it sufficient, after reading the descriptions, to compare for a few minutes

the figures of the former with the engravings presented in the accounts of Major Long's Expeditions. Both express material objects by rude representations, numbers by simple marks, &c. &c.; while certain other ideas are conveyed by arbitrary characters. The difference between them does not appear to us greater than must necessarily exist between the productions of ignorant warriors and hunters, living in a simple form of society, and those of the members of a complicated state, possessed of property, and even as described by Clavigero, of a species of science and literature. Add to this that the ruder examples are met with in regions which bear a close analogy in their population to those, a little farther west, to which the Mexicans trace their origin. And if we refer to the empire of Peru, or to the civilized masses of the Muisca or the Araucanians, we shall find every where the same character of originality; meeting in no instance with reasonable evidence of the derivation of refined customs or manners from those of any other section of mankind.

The conclusions obtained by the comparison of languages do not appear much more decided. Scarce any department of knowledge exhibits so large a mass of literary labor with so small a result produced. A few scattered analogies of sound are picked out of a great number of detached languages, totally differing in general etymology, and with their grammars and usages of diction varying in a manner truly surprising, and which could not have been anticipated before the fact was known. The pioneer in this laborious task appears to have been our countryman, Dr. Barton; whose elaborate comparison of Indian words with those of the old continent is to be found in his "New Views of the Origin of the Tribes and Nations of America." Professor Vater does full justice to the labor which must have been expended upon this comparative vocabulary, of which no one was so capable of judging as himself; but remarks its inconclusive character.—"Comparisons," says this learned philologist, "must not be forced. Similarity ought to be perceptible in the essential parts of words; and when discovered, should not be confined to two or three words in a language. Unsolid deductions alone can be drawn when a word, selected now from South now from North America, is compared at one time with those of the north east coast of Asia, and at another with those of the Caucasus. To demonstrate a connection between different languages and nations, and to afford foundations for certainty in the result, the coincidence of their words should be constant. The resemblances discovered by Dr. Barton are too slight, the languages compared innumerable, and the instances of similarity too few. These are sought for, in the present case, with much too great eagerness, and the inference of a connection between the American and Asiatic races drawn with far too much promptitude."

The comparisons which the learned colleague of the great Adelung has himself published, certainly do not appear liable to the charge of eagerness or haste. A life chiefly expended in the study of languages, the task of first completing and then editing the Mithridates, the great philological work not of this but of all past and present ages, the authorship, as is alleged, of more grammars than have been prepared by any other individual—such are the claims of this highly distinguished scholar to act as a judge in the inquiry now before us. More qualifications could scarcely be brought to the task. With great labor, and from a variety of authorities, in every instance, it is believed, the best extant, and of which he has given us a list, he has made three vocabularies, embracing words of a similar sound, existing at the same time in the languages of America and in those of the older world.

In preparing these tables the most rigid precautions were used. No words were inserted as analogous which did not embrace at least two consonants in which the resemblance existed; and great care was taken, guided

by the knowledge and sagacity of the learned author, to confine the comparison to the radical and essential parts of words, rejecting the terminations which were common to many words of the same class. Thus the Ba-que, and, in fact, the Latin, *te*, thou or thee, is analogous to the Mexican *te-huall*, the termination *huall* being that which belongs to every personal pronoun. The words selected, are those which are considered as furnishing the established and fitting tests of similarity in a barbarous language. We have not time or space to enlarge on the precautions necessary in selecting them. They should be familiar words, such as were necessary to the lonely savage, in his most simple and secluded mode of life. The personal pronouns, some mode of expressing which appears indispensable to every one who converses, the names of the elements those of parts of the body, those of the immediate relations of father, mother, sister and brother, the numerals as far as ten, an extent of arithmetic which seems almost indispensably connected with the possession of the ordinary parts of the human body, of such a class are the words which, by common consent, that is by the opinion of a few men of extraordinary learning and industry in this research, have become appropriated to the formation of a comparative vocabulary. None would certainly seem better adapted to his present purpose.

The language selected for comparison, among the immense mass which exist upon the surface of the earth, were those of nations and tribes from which, by their proximity to America, colonization of the latter may be imagined to have taken place. They were those of the north-east coast of Asia, excluding the more southern regions, and including the Malay; those of Western Africa; with the addition of the Coptic; and finally the ancient languages of the west of Europe, such as the Celtic, the Welch, the Basque, the Estonian, the Finnish, the Lapponian, the Irish, and those of Cornwall and of Brittany.

In his remarks on the foregoing elaborate and apparently endless task, the learned compiler himself acknowledges the great insufficiency of the results to produce any thing like a satisfactory impression on the mind. The evidences are too close, in his opinion, to be the mere work of chance; they furnish decided ground to presume a connection to have existed in some manner between America and Asia, while they leave every other circumstance connected with this single inference, either as regards the direction of the transition, the seat of the common stock, the time, the route, or the order of succession, in the darkness of an utter chaos.

To make comments on the foregoing product of vast learning and years of industry, would hardly seem within the province of the general reader, or of those whom both duty and inclination strongly draw to the pursuit of other arts and studies. Yet, as the following survey would be incomplete without it, we shall present the impression made upon us by the perusal of the vocabularies, of the remarks made upon them by the learned author, of the parts relating to this subject contained in a later compilation, the Atlas Ethnographique of Professor Balbi, with the introductory volume, and of one or two partial references to other authorities. It is that of utter hopelessness. The objections which the learned Vater makes to the comparisons of Dr. Barton, in regard to the manner of their compilation, must certainly be considered as entirely removed, at least as far as human industry, sagacity and learning, and the lapse of many years could do them away; but those which arise from the nature of the subject itself, from the inexplicable and disappointing results obtained, do appear to us still applicable in a great degree to the learned and persevering labors of the European philologist. The comparisons are still few and sparse, and selected from a vast variety of remote dialects, many of them without visible approximation or connection. The resemblances enumerated amount, as we

count them, to 104 between the American languages and those of Asia and Australia, 43 with those of Europe, and 40 with those of Africa; in all 187. We must take leave to ask whether these are sufficient to prove connection between 400 dialects of America and the various languages of the old world. Lost in an ocean of multifarious forms of speech, selected, as they offer themselves, from the whole length of America, including Greenland, from amid tribes the most diversified in appearance and habits, the most widely separated nations of the old world selected for the parallels, Tungoses and Biscayans, Tartars and Boshiesmen, those who wrote the sacred language of the Hindoos, with the bards of Wales and the historians of ancient Ireland, quoted in bewildering confusion, or only classed by continents, can these coincidences be considered as leading to any available conclusions? One hundred and seven languages and dialects are compared to discover them, thus affording an average of little more than two or three comparisons in each case in which connection is sought for. We would wish to speak of the labours of learned and illustrious men with all becoming modesty; but does not this profound investigator over-estimate the result of his inquiries when he pronounces these coincidences to be more than the work of chance; or, to speak more correctly, are they not the effect of the similarity, among all the races of mankind, of the organs of speech? We have seen it probable that the identity of the human intellect, under the same circumstances, will lead to a similarity of manners and customs. Is it not equally evident that, from the structure of our bodies, certain sounds are produced with more facility than others, and are, from this cause, more frequently employed in the gradual construction of languages. It is, we believe, the opinion of philologists that forty or fifty letters will express all the elementary sounds employed in human intercourse in any part of the world. If the number of simple sounds be so small, will not certain easy conjunctions of them become peculiarly familiar among different unconnected nations, and is it not reasonable to presume that some of these will be employed in more tribes than one at the same time, to designate those familiar ideas which have been selected by philologists for their vocabularies of comparison?—With all proper reserve, we should suggest that this principle, which is assented to by Professor Vater, appears sufficient to account for the resemblances enumerated above; and that it therefore cannot be considered proved at present that the languages of America, with the exception of the case of the Esquimaux and Tschuktschi, have any connection with those of the old world.

We should not lose sight of the great difficulty and liability to error essentially inherent in the inquiry.—Mistakes of considerable number and magnitude are unavoidably committed from the necessary disadvantages of intercourse in an unknown language, with imperfect or heedless interpreters. An amusing and yet striking example of this occurs in Mariner's account of the Tonga Islands, where Captain Cook appears to have been misled by this cause. Among other instances, the celebrated circumnavigator gives a word as the Tonga for "good," whereas, says Mariner, this signifies, "give it me if you please," the native having begged for the object which Captain Cook thought he was merely praising. Again, when he asked what was the Tonga for 100,000, the savage, whose arithmetic probably did not extend so high, replied by a phrase supposed by the reporter to express that number, but which really means "nonsense" or "foolish discourse."

The prosecution of this curious inquiry, carried on, as it is, by men of profound understanding and unbounded learning, can hardly fail to lead to many highly interesting results with regard to the affiliation of the tribes of mankind both on our own and the older continent. We are bound to state that one extensive section

of this field of inquiry yet remains open to future labourers. We may mention the Mayo language, now spoken in Honduras, and which appears to have been the material stem of the dialects of the exterminated population of Cuba, Hayti, and Porto Rico. This possesses analogies with some of the dialects of the southern ramifications of Mount Atlas, in Africa; analogies which are considered worthy of attention by Balbi. The great empire of Brazil contains numerous languages, and the relics of more, which are either unknown or very imperfectly known to the ethnographer. As these are directly opposite to the continent of Africa, across an ocean of more moderate width than that of the North Atlantic or Pacific, this circumstance, together with the constant prevalence of the trade winds, renders migration from east to west at that point by savage families a more probable occurrence; and as some other circumstances render that a point which it is interesting to examine in regard to emigration, we have a right to expect from that quarter a considerable mass of additional evidence on the difficult problem of American colonization.

Another argument in favour of the Mongolian origin by northeastern Asia, and one generally assumed and much insisted on, is the similarity in conformation said to be met with between the American Indians, and the men of Mongolian descent now encountered in Asia. This has, of late, been generally held as incontestable; and we are surprised at the facility with which persons who have been well aware of other difficulties have given in to this opinion. This is more remarkable, as the materials for a correct judgment are so easy of access, and the point of which a judgment is to be formed so visible and conspicuous. The leading characters of the Mongol conformation are a yellow colour, a forehead rather low and contracted, the facial angle rather less than in the European, the cheek bones wide and projecting, giving a broad and flat appearance to the face, and causing the nose to appear but little prominent, seeming buried among the other features, the opening of the eyes narrow and long, having the outer angle a little raised and the inner depressed, and the stature rather moderate, except in the extreme northern variety, in which it is dwarfish. Those of the American Indian are a colour usually styled red, cheek bones a little elevated, but not remarkably wide or projecting forwards, nose nearly as prominent, according to Blumenbach, as in the Europeans, eyes alleged to be similar to those of the Mongol, stature moderate, proportions slender, except when civilized, employed in labour and well fed, when, according to Heckewelder, he becomes thick and muscular.

We feel as if treading dangerous ground when questioning the accuracy of an inference so generally received as that of a resemblance between these two sets of characters; but we may be permitted to inquire whether this reverence for great names and established opinions, which has so often been the means of retarding the growth of science, has not operated to a disadvantage in the present inquiry. It really appears to the writer of these sheets that there is no particular resemblance such as has been described, other than in the fact of a slender conformation, a quality which is easily produced in all varieties of men, by an active mode of life, without heavy labour, and with a sparing or irregular nutrition. The yellow colour contrasts with a hue which we call red, and which is certainly no shade of yellow, and resembles in no degree that of the Mongolian Chinese who are occasionally brought to this part of the world. The low forehead and facial angle are assumed by Blumenbach as a distinction of the Mongol from the Caucasian or European race, and are common to all the other nations of mankind, excepting that they are rather smaller in the negro. The form of the opening of the eyelids, described as narrow, and with the outer angle raised, has not appeared conspicuous to

us in the most familiar Indian faces, nor in the drawings of these people which we have seen; and certainly it is far from evident in the engraving which Professor Blumenbach has given us as an example. With regard to the next peculiarity, it has always appeared to the writer of these sheets that a confusion of ideas existed among authors, and that the *elevated* cheek bones of the American variety of mankind bore none but an imaginary resemblance to the *projecting* and *widely spread* cheek bones of the Mongol. Certain it is that the face of the American Indian in our vicinity is far from a flat one; the nose projecting, as is indeed acknowledged by Professor Blumenbach, nearly as much as in the European. Indeed, the writer of this has been informed by a member of the Missouri expedition that the prominent or Roman nose is very common among the Indians of that quarter; so much so that it is considered a mark of personal beauty, of which the warriors are frequently proud. In one tribe, according to Mr. Say, the established hieroglyphic character for beauty, was a bent line, expressing the contour of such a nose.

The face of the portrait given by Blumenbach as an illustration of this race of men, is certainly wide, but by no means flat, the nose standing out in good relief. In his drawings of skulls, the bones of the nose visibly project, quite sufficiently to bring them within the bounds of the Caucasian variety, while the width just alluded to is not remarkably conspicuous. The same is equally true of the Indian skulls which I have been enabled to examine, that of a war chief preserved by the Phrenological Society, and those in the valuable collections of Dr. Samuel G. Morton and Dr. Harlap.

The portrait given by Professor Blumenbach is worthy of especial attention in several particulars. Originally published by the father of anthropological science, in his classical work "*De Generis humani Varietate nativa*," and multiplied in England and America, by having been copied in Lawrence's Lectures, this portrait bids fair, under the authority conferred by the high and long established reputation of the illustrious Göttingen professor, to become the standard of the Indian countenance throughout the learned world. It is, therefore, the more desirable, if there be any importance in attaining truth in regard to this subject, that this portrait should be a good specimen, and that the descriptions should coincide with it. Those who inspect the figure, and who are acquainted with the Indian physiognomy will be easily able to judge. To the writer of this it appears, in all candour, to bear no resemblance to the Indian countenance, either as we see it in the examples which remain scattered among our white population, or in the distinguished war chiefs and orators who are sent to us on missions from a distance. Neither does it show to our satisfaction, a correspondence with the characters of the race which we have enumerated above. The portrait in question seems mainly based on the Caucasian model, but endowed with disproportionate and enormous width and thickness of feature. It is difficult to conceive why this plate should be a fair representation of the Indian face, if, as we apprehend, under the name of *Thayandane-ga*, it be that of the noted Brandt, who led the massacre at Wyoming, celebrated by the poet Campbell, and who was the son of a white man. The adoption of such an example is another striking instance of the errors into which very learned men may be led, by a want of sufficient knowledge or care on the part of those from whom they derive their information.

It does not, therefore, seem that the hypothesis of a Mongolian origin derives any very positive support from a comparison of the heads and figures of the two races. If the Americans be in reality descendants of a Mongol ancestry, the separation of the two branches of the family must have taken place at a date so remote as to permit the formation of distinctive characters

quite as great as those which separate the latter from some others, as, for example, the Malay.

The last argument in favour of this opinion which remains for us to consider, is the tradition alleged to have been preserved among various Indian tribes, stating that their ancestors migrated to their present seats from the northwest. The Mexicans possess what appears to be a minute account of the progress and order of succession by which their nation, and others which surround or preceded them, removed to their present lands from the vicinity of California. The tribes still remaining in that vicinity, would appear to retain many of the attributes which the Mexicans give to their ancestors; and if we receive accounts inserted in the newspapers, they are stated to have been found in this condition, by some of our countrymen who have recently visited them in pursuit of commerce. The Delaware tribes, we are told, represented their own ancestors and those of the Six Nations, as having arrived from beyond the Mississippi. On the other hand, the traditions of the Six Nations refer their ancestry to the vicinity of Montreal, from which they removed when they rebelled against the Adirondacks. Among the southern Indians, or those still farther north, I do not know of this tradition having ever existed; and at any rate, it can by no means be predicated of the immense variety of tribes that inhabit South America.

Upon the whole, this tradition is certainly not without its weight; and it may not be unreasonable to concede that it seems to demonstrate emigration from the northwest to a certain extent. Yet, on the other hand, we ought not to forget that it is confined to a few tribes and nations; and again, that, for the purpose of settling such a question, it is of short duration. By the Mexican chronology, the migration described in their paintings, would seem to bear date, according to Humboldt, for their own race, about 1178, and for the Toltees, about 544. On the part of our Delawares, it would hardly be safe to assume a very remote period. Their traditions, when express upon this point, seldom name a high antiquity; and we know of nothing to prove a higher. The Indians of our country do not, we believe, retain any account of the daring and adventurous expedition of Ferdinand de Soto. Such traditions as these, then, can hardly be applicable to a time so remote as that to which we alluded, prior to the invention of the sword or the saw, or the reduction to servitude of the reindeer, the horse, or other domestic animals. The distance, too, which the Indians represent as having been traversed in the migrations of their ancestors, are so short as to prove nothing more than the mere direction of a movement. One is from California to the plain of Mexico; the other from beyond the Mississippi to the banks of the Delaware. It would, therefore, we conclude, be unsafe to assume these traditions as furnishing proof or strong presumption of a general colonization, at a very remote period, from beyond Behring's Straits.

We have thus, laid before us for consideration, a sketch of the arguments in favour of the Mongolian hypothesis. I am willing to grant, with the learned Vater, that these reflections render it highly probable that descendants of the Mongolians exist among the Indian tribes; but is not the evidence very defective towards such a conclusion as that which would draw the whole population of our continent from this source? To suppose that colonies of Mongolian descent have contributed to fill the amount of the American population, is a very different position from that which refers to this explanation, the origin of the whole. The one is easily received by the mind, and is indeed strongly confirmed by the physical confirmation of the Esquimaux races; while the other supposition is liable, besides its vastness, to very serious direct objections. It would be giving a highly imperfect view to leave the question at the point to which we have now brought it, breaking off with the positive arguments in its favour, and omit-

ting to speak of the independent obstacles to the admission of such an hypothesis. We shall, therefore, devote a few moments to the consideration of these.

(Remainder next week.)

## ELECTIONS.

During the great excitement which existed, we have not published any matters touching the elections. Now they are terminated, we record, as usual, the results from the daily papers. We commence this week with the ward elections—and the official documents in relation to the unfortunate death of an individual. The Mayor has offered a reward of \$500, and the Governor one of \$600, for the apprehension of the murderer. The results of the General election, which took place on Tuesday, we shall defer until they can be had officially. We regret to state, that scenes of violence unusual in the city and districts, were exhibited, of which the reports are so various, that we postpone saying any thing on the subject at present.

## WARD ELECTION.

The following is the result of the election, held on Friday Oct. 3d, in the different Wards in the City and Liberties of Philadelphia, and in the different townships of the County.

### City Proper.

Wards.	Whigs.	Opposition.	Total.
Upper Delaware	293	377	670
Lower Delaware	425	301	726
High Street	318	133	451
Chestnut	264	124	388
Walnut	240	72	312
Dock	335	143	478
Pine	344	160	504
New Market	318	386	704
Cedar	333	233	566
Loenst*	443	334	777
South	342	119	461
Middle	284	182	466
North	483	271	754
South Mulberry	376	232	608
North Mulberry*	50	500	550
	4521	3568	8089

### Northern Liberties.

First	240	235	475
Second	257	146	403
Third	272	324	596
Fourth	310	195	505
Fifth	353	386	739
Sixth	000	239	239
Seventh*	131	447	578

### Kensington.

First	114	248	362
Second	130	185	315
Third	140	185	325
Fourth	158	268	426
Fifth	74	235	309

### Spring Garden.

First*	239	474	713
Second	253	305	558
Third*	160	130	290
Fourth	334	258	592

	Whigs.	Opposition.	Total.
Unincorporated N. L.	85	143	228
Oxford	233	227	460
Lower Dublin	212	196	408
Moreland		27 maj.	
Byberry	82	67	149
East and West South- wark	664	1567	2291
Moyamensing†			
Passunk	62	136	198
Kingsessing	62	111	173
Roxborough	220	267	487
Blockley	269	215	484
Penn Township	79	176	255
Bristol		Whig majority	26
Germantown		Whig majority	50

\* In these wards the election is contested.

† The Whig Assessor was elected.

*Commercial Herald.*

### CORONER'S INQUEST ON THE BODY OF WILLIAM PERRY.

At an inquest held by me, at the house of Sarah Perry, No. 143, Locust street, on the body of William Perry, it appeared in evidence, that the deceased was of sober and peaceable habits—was never known by his most intimate friends, to have had any quarrel or enmity between himself and others, either of a private or political nature—that himself and his friends were not in any crowd at the time he received the wound, but were quiet spectators of an affray which occurred at the corner of Twelfth and Locust streets, on the opposite side of the street—that suddenly there was a running of persons from the place of riot in different directions; that some one of these persons stabbed William Perry in his flight, so suddenly and escaped with so great celerity, as to entirely elude the observations of the young man who was engaged in conversing with deceased, whose first notice of the attack, was from deceased exclaiming, “*I am struck.*” On an examination of the body by Doctors Huston and Zantinger, it appeared that some sharp pointed instrument had entered the fore part of the thigh, wounding the great artery, and extending to the lower part of the abdomen. The above particulars are published under a sense of duty, and that a true knowledge of the case may have a tendency to prevent the ill effects of misrepresentation upon the public mind, already much excited as respects this horrible outrage.

JOHN DICKINSON,

Corner.

October 4th, 1834.

### INQUEST OF THE GRAND JURY.

The Grand inquest of the Commonwealth of Pennsylvania inquiring for the County of Philadelphia, upon their oaths and affirmations, respectfully do present;—That having received information that a murder of a most atrocious character had been committed on the night of the third instant, upon William Perry, in Twelfth street near Locust street, in the city of Philadelphia, by some person unknown; the Grand Inquest aforesaid, under a deep and solemn sense of duty, proceeded immediately upon the assembling together on the morning of the 6th instant, to the neighborhood where the murder was committed, and there diligently instituted an inquiry of all persons represented to them as having any knowledge of the circumstances attending the commission of said murder; that from the inquiry made by this Grand Inquest from all the witnesses that appeared upon the subject, the

following facts appear—That William Perry, the deceased, a peaceable unoffending young man, of respectable character, while attending the election for Inspectors and Assessors in Locust Ward, the ward to which he belonged, was standing at about 7 o'clock, in the evening, in company with his friend Benjamin Hamilton, on the east side of Twelfth, a short distance north of Locust street, that the west side of Twelfth street was, during the time he stood there, the scene of much tumult, riot and disorder, arising from the collection of a large body of people around one of the election polls—that suddenly a rush was made by a portion of the crowd to the side of the street where the deceased was standing, and that, in passing him some one inflicted a wound with a sharp instrument in the upper part of his thigh, of which wound, at about two o'clock on the following morning, he died.

Although the efforts of this Grand Inquest to detect and bring to light the perpetrator of this foul deed have thus far proved unsuccessful, and have resulted only in ascertaining the facts detailed above, it is hoped that the culprit will not long elude the vigilance of the public officers and good citizens of the city and county of Philadelphia, that justice will soon overtake him, and the violated laws of our Commonwealth will be fully vindicated and the character of our city redeemed from the stain thus cast upon it.

Holding, as this Grand Inquest do, the free and unrestrained right of suffrage to be one of the most inestimable privileges of our country, essentially necessary to the preservation of the freedom we enjoy, they cannot but regret that its exercise should ever be attended with such infractions of the public peace and good order, as have in several instances marked the progress of our popular elections. Is this the result of some defect in our laws which may be cured by Legislative enactments, or is it attributable alone to an extraordinary degree of political excitement which pervades this community, against which no effectual Legislative provision can be made without abridging the freedom of suffrage. These are questions of deep and solemn import which should command the serious attention of every friend of peace and order and of free government. The whole fabric of our political and social system rests upon the supremacy of the Laws, emanating from the people through the medium of popular elections;—in the preservation of these against the assaults of the turbulent and violent, every peaceable citizen has a deep and abiding interest. If the elector, in the peaceful exercise of his rights at the polls, is to be assaulted, overawed or intimidated by the bludgeon or stiletto of the assassin, then indeed have we reason to apprehend that anarchy and confusion will usurp the place of law and order, and the election ground, instead of being the theatre for the peaceable discussion and rightful decision of political controversies, will become the arena for political and mercenary Gladiators, trampling under foot all Law, order, and Government.

The Grand Inquest aforesaid respectfully do recommend that all the officers of this court be strictly enjoined, and that every good citizen of this county be requested to use their utmost endeavours to detect and bring to justice the murderer of William Perry, and to prevent the recurrence of any breach of the public peace at the approaching election. The Grand Inquest do further respectfully present, that the carrying of dangerous and deadly weapons about the place of election, should be discontinued by every peaceable citizen of this community, as calculated to abridge the free exercise of the right of suffrage, and excite infractions and violations of peace and order.

HENRY HORN,

*Philadelphia, Oct. 13, 1834.*

Foreman.

From the Philadelphia Gazette.

# PROCEEDINGS OF COUNCILS.

Thursday evening, Oct. 9th, 1834.

## SELECT COUNCIL.

The President laid before Councils a communication from the City Commissioners, enclosing printed statements of their expenditures during the quarter ending on the 30th ult. together with the expenses of paving and re-paying—their receipts for Market rents, &c.

The President submitted printed statements from the City Clerk, of his receipts for permits for placing building materials, and for entries of hackney coaches, wagons, carts, drays, &c for the quarter ending on the 30th ult. together with his payments to the City Treasurer.

Mr. Price presented a memorial from the city constables, in relation to expenses incurred in advertising and conducting the late ward elections. A resolution appropriating the sum of six dollars to each, to defray the same was passed and concurred in by Common Council.

On motion of Mr. Eyre, it was resolved, that the proposition to erect Engine houses at the east end of the Market house west of Broad street, be referred to the early attention of the next Councils.

## COMMON COUNCIL.

The President submitted the annexed report from the Commissioners of the Girard estates.

The Commissioners of the Girard estates, beg leave to make the following report:

The property of the trust has undergone little change since the date of their last communication.

The following abstract exhibits its present condition:—

The sixteen new houses on Chestnut street, between 11th and 12th streets, have been, by the Executors of the late Stephen Girard, passed over to the city, and all with the exception of two, let to good tenants, at an annual rent of \$1000, except the corner houses, one of which lets for \$1100 and the other at \$1200 per annum. The range of new stores being built on Market street, is nearly completed, one of them has just been finished, and is let at a rent of \$800 per annum.

In consequence of the decayed state of the wharf opposite the Girard stores, it became necessary to reconstruct a greater part of it. This has been done in a very substantial manner at an expense of \$3800.

The going out and coming in of tenants, and the ordinary wear and tear of the dwellings and stores require numerous repairs, which have been made in every instance under the supervision of the agent. The largest portion of the property, within the present year has been and is now being painted outside.

Applications having been made by many of the tenants for bath houses, it was deemed advisable to cause them to be erected under the authority of the Board, and at the expense of the trust; the tenants in all cases stipulating to pay an additional rent of \$20 per annum, and the water rent.

The board were also applied to by very many of the tenants for a reduction of rent. In a few instances where in the opinion of the Board, the rent has been fixed at too high a rate, the request was acceded to, and a small reduction accordingly made. Within the last three months, however, no change in this particular has occurred.

On the 15th March last, the Board were directed by a resolution of Councils to cause such legal measures as Council may advise for the purpose of ascertaining and enforcing the right of the city to the property purchased by the late Stephen Girard, subsequently to the last publication of his will, and on the same day a resolution was passed by the Board, that Henry J. Williams, and

John M. Scott, Esq's. be retained on the part of the city for the purposes embraced in the resolution of Councils, and on the 16th September last, Joseph R. Ingersoll, Esq. was joined with those gentlemen. The whole subject will come before the Supreme Court and be by that tribunal finally disposed of.

It affords the board pleasure to state that the rents have been generally paid with punctuality. There remains unpaid of the quarter ending the 30th September, ult.

In the city, \$117 25

In Coates' street, 290 55

Of which \$281 80 are secured by bond and warrant:

Of the rent of the farms there are due \$188 00

Of the houses and stores there are vacant, in addition to the two houses in Chestnut street, three stores in north Front street.

The average rent per annum of these is \$4500

As respects the personal property of the trust, the board have nothing to communicate in addition to the report of the treasurer now before Councils.

All which is respectfully submitted.

JOSHUA LIPPINCOTT, President.

Attest, MORGAN ASH, Secretary.

PHILADELPHIA, Oct. 9, 1834.

Mr. Toland made report that the committee of accounts had examined the accounts of the City Commissioners, from 1st October, 1832, to 30th June, 1834, and found the same correct.

Mr. Kirk from the special committee appointed on the subject, made the following report.

## To the Select and Common Councils.

The Special Committee, to whom was referred the communication of Joseph L. Dutton, submitted to Councils on the 19th December and 27th March, beg leave to report—

That they gave early attention to the matter referred to them, and examined with much attention the plan of an Arch and corresponding centres, invented by him, and shown by models, which is proposed to be used in the erection of the Girard College. The whole arrangement of the plan and models, evidently show considerable genius and ingenuity, that could only have been effected by talent and persevering industry. In the examinations given to the models, it was to be anxiously desired, that neither the Committee nor Councils, should be thought capable of manifesting the least want of courtesy to our respected fellow citizen; and the presentation of this report has only been delayed, in the hope, that something would occur, to enable them to offer some more favorable conclusion, that would be satisfactory to the very sanguine belief, on the part of the inventor, of the certain success, and great economy of his plan.

Your Committee find their appointment to be more delicate, as it is for the examination of the models of an Arch and Centres, proposed to be applied to a building of so much importance, and public interest, as justly attaches itself to the Girard College, in which, the rooms for the application of the proposed plan are directed to be fifty feet square, and of the height of three stories, all arched, and completely fire proof.

If the plan carried with it the strongest evidence of successful execution, and had the fullest approbation of the most scientific and experienced; it would still be a matter of some question, how far it would be proper to try this or any other experiment, in the erection of the Girard College.

In every plan, that has not the test of experience, a failure may possibly occur, and although the most flattering prospect of success may be promised as the reward of industrious talent, yet the oversight of some minor points, or the execution of the plan, may produce difficulties, and even failure at first, which can only be overcome by experience, and actual carrying into effect.

Under these considerations, your committee are of opinion, that the responsibility of an approbatory recommendation, would be much greater than they are willing to assume.

More particularly, as the building of the Girard College for Orphans, according to the plan adopted by Councils, is especially placed under the direction of an architect, superintendent, and a building committee of eight members; any action on the part of the present committee, might be viewed as an interference in the duties of those who have been selected, and are fully competent, to the execution of this all important trust.

These views will no doubt be sufficient, in the opinion of Councils, and of the respectable citizen who has introduced this subject, for the committee to be excused from an expression of any opinion; and whilst they would respectfully offer their testimony to the well known talents and mechanical skill of the gentleman who has submitted his models for their inspection, and their thanks to him for his polite attention to them individually, the committee beg leave to submit the following resolution.

Resolved, That the committee appointed on the communications of Joseph L. Dutton, be discharged from the further consideration of the subject.

WM. KIRK,  
RICHARD PRICE,  
JOHN P. WETHERILL,  
W. M. MEREDITH,  
ENOCH ROBBINS.

On motion of Mr. Gilder the paying committee was discharged from the further consideration of a petition for the improvement of Walnut street on the Schuylkill, and the same was referred to the committee on Schuylkill wharves.

On motion of Mr. Chandler, it was

Resolved, That the thanks of the Common Council be presented to Henry Troth, Esq. for his faithful, dignified and courteous discharge of the duties of President, for the year now about to close.

Adjourned.

### ALLEGHENY COLLEGE.

The last week was the week of the first annual commencement of this institution, since its connection with that highly respectable and influential body, the Pittsburgh annual conference of the Methodist Episcopal Church. Monday, Tuesday and Wednesday were faithfully occupied by the Faculty in the examination of the students, in their various studies. Trustees, parents and visitors, attended these examinations, and were highly gratified with the satisfactory evidence they afforded of the qualifications and assiduity of the Faculty—of the application and correct deportment of the students, and of the harmony and kind feeling that pervaded the whole—All presenting the pleasing presage of the future prospects of the rapidly increasing interests and usefulness of the institution. On Thursday the commencement took place. The Trustees, Faculty, Students, Meadville Lyceum, the Revd. Clergy, and other literary characters of Meadville and from abroad, and citizens generally, having assembled at the College Edifice, by half past eight o'clock in the morning, were arranged in procession, under the superintendence of Gen. Dick, and preceded by a band of music proceeded to the court house, where were assembled a highly respectable audience of ladies and gentlemen awaiting their arrival. The exercises were opened by prayer by the President of the Faculty, after which addresses were delivered on the following subjects.

1. Salutatory in Latin, by James M. Ellis.

2. An Oration on the Aborigines of America, by Samuel W. McClure.

3. On the importance of established moral principles, by J. P. Halloway.

4. The spirit of the Times, by Zelotes L. Holmes.

5. A selected piece, W. H. Barris.

6. An Oration on American Literature, W. McMichael.

7. On the Manual Labor System of Education, by Wm. H. Davis.

8. The existence of God proved from the works of creation, by Philander S. Ruter.

9. Valedictory address, by Thomas Vanhorn.

In all these exercises the speakers acquitted themselves very much to the gratification and satisfaction of the audience—their subjects were highly interesting—their compositions excellent, and their delivery good—the intervals were enlivened by music from the band. At the close of these addresses, the usual degree of A. B. was conferred upon James M. Ellis, Philander S. Ruter, and Thomas Vanhorn, graduates—and the honorary degree of Master of Arts, was conferred upon the Rev. Alfred Brunson, of Meadville, and Rev. Matthew Simpson of Pittsburg—after which an interesting and appropriate address was delivered to the graduates and students generally, by the President of the faculty—at the close of this address the Benediction was pronounced by the President.

In the afternoon of the same day, and at the same place, were assembled a very respectable audience of ladies and gentlemen to hear an appropriate and interesting address from N. R. Smith, Esq. of Pittsburg, before the Literary societies of the College, and of one of which, he is an honorary member.

To this plain statement in relation to the commencement, we would add—that the future prospects of the institution are highly flattering. We have witnessed at its *second session*, the number of its students increased to one hundred and twenty—a circumstance which has rarely, if ever, perhaps, before, been the case in any College in our country; and omens well of the friendly feeling of public sentiment towards it; and we feel confident that its numbers will continue to increase with its progress, whilst under the superintending care of those who under the smiles of a kind providence, now direct its destinies. We there observe a well qualified and faithful faculty, devoting all its energies to imparting instruction in the most social and friendly manner, to a body of students, chiefly from the *farm* and the *workshop*—the two great interests on which the welfare of society so much depends. Animated with a laudable zeal to hold a high rank for usefulness in society, they have not been afraid to leave the parental roof, and enter the college on the manual labor system—a system which not only gives vigor to the body, but also to the mind. A suitable exercise of the body is essential to the active operations of the mind, and perhaps, in no way will it be found better fitted to the object, than the manual labor system of the college. It is this system that will contribute largely to the enlightening of those highly important classes, by carrying into them, and spreading before them practically, a knowledge of the higher branches of education—and also rapidly increase in the councils of the nation, the number of distinguished characters from these classes in society.

We would further add, that in addition to the present Faculty, the Rev. Wm. Burton, a graduate from the Wesleyan University, a well qualified and experienced teacher, is engaged by the college for the next session, as Preceptor in the Preparatory Department, so that the Faculty will be prepared to meet any demands that may be occasioned by an increased number of students. The entire Faculty now consists of

Rev. M. Ruter, D. D. President, and Professor of Moral Science.

Rev. H. J. Clark, A. M. Vice President, and Professor of Mathematics, and Natural Philosophy.

Augustus W. Ruter, A. M. Professor of the Greek and Latin Languages and Classical Literature.

Rev. Wm. Burton, A. B. Preceptor of the Preparatory Department.

Mr. Wm. H. Davis, Tutor.

## WESTERN UNIVERSITY OF PENNSYLVANIA.

The Alumni Association of the Western University of Pennsylvania, met, pursuant to adjournment, on Thursday, 2d inst. at the Hall of the Tilghman Society. The meeting was organized by calling Dr. ROBT. B. SIMPSON to the chair. After the minutes of the last meeting had been read, the society proceeded to the election of officers for the ensuing year, which resulted as follows.

President—W. W. IRWIN, Esq.

Vice Presidents—Rev. Joseph Kerr, Dr. Robert B. Simpson.

Corresponding Secretary—C. Darragh, Esq.

Recording Secretary—Thomas Liggett, jr.

Treasurer—Dr. J. R. McClintock.

The society then proceeded to elect a member to deliver an address, and also a member to act as alternate, as provided in the 8th section of the Articles of Association; and, on the second ballot, Darwin Phelps, Esq. of Somerset, Pa. was chosen Orator, and the Rev. Joseph Kerr, Alternate.

On motion of W. W. Irwin, Esq.

Resolved, That the Address be delivered on Commencement Day, 1835, unless otherwise appointed by the committee of arrangements.

The President of the Association then took the chair, and appointed Walter H. Lowrie, Esq. Dr. G. D. Bruce, Messrs. R. E. Sellers, W. O. H. Robinson, and Abner L. Pentland, Committee of Arrangements for the ensuing year.

On motion of Dr. G. D. Bruce.

Resolved, That a committee of three be appointed to ascertain the names and residences of the Alumni of the Western University, and report at the next meeting.

The President appointed Geo. D. Bruce, Messrs. R. M. Montgomery, and Wm. G. Liggett to compose said Committee.

On motion of A. L. Pentland.

Resolved, That the following be appended, as a by law, to the Articles of Association—"It shall be the duty of the President to call special meetings of the Association, at the request, in writing, of the Committee of Arrangement."

On motion, the society adjourned.

W. W. IRWIN, Pres't.

T. LIGGETT, jr. Rec. Sec'y.

## ARTICLES OF ASSOCIATION.

*Of the Alumni of the Western University of Pennsylvania.*

1. The Association shall be denominated "*The Society of the Alumni of the Western University of Pennsylvania.*"

Its object shall be the cultivation and advancement of the Sciences, and the general diffusion of knowledge; its members shall consist of such individuals as may have pursued the usual course of collegiate studies in the Western University, or have received Degrees from said Institution, and of such honorary members as may be elected by a unanimous vote, at some stated meeting of the Association.

2. The stated meetings of the Association shall be annual—they shall be held in the University buildings, upon Commencement Day, at 7 o'clock in the evening.

3. The officers of the Association shall be a President, two Vice Presidents, a Corresponding Secretary, a Recording Secretary, and a Treasurer, who shall be elected annually.

4. The President shall act as Chairman, and preserve

order at the meetings. In cases of equal division of the members on any question, he shall have a casting vote. He shall have the appointment of all committees, unless otherwise ordered; in his absence, one of the Vice Presidents shall exercise his functions.

5. The Corresponding Secretary shall give public notice of every meeting of the Association; and, as his title indicates, he shall have the sole charge of its correspondence.

6. The Recording Secretary shall keep correct minutes of the proceedings of the Association, and cause the same to be published.

7. The Treasurer shall have custody of the funds and other properties not herein provided for, subject to the orders of the association.

8. At each stated meeting, a member shall be elected by ballot to deliver an address, at some time, in the course of the ensuing year—to be fixed upon at said meeting—a member shall, at the same time, be elected by ballot, to act as a substitute, whose duty it shall be to prepare an address, to be delivered by him in the event of any failure, from sickness or otherwise, on the part of the member first chosen. The address shall be delivered in presence of the society, and before such audience as may be invited, under the direction of a standing committee of arrangement—said committee shall be chosen annually, and shall have power, from time to time, to suggest, for the adoption of the association, such other literary exercises as they may think proper.

From the Columbia Spy.

## PENNSYLVANIA RAIL ROAD.

*Opening of both tracts of the Pennsylvania rail road for travelling*—On the evening of 6th Oct., Governor Wolf and several of the heads of departments arrived at this place from Harrisburg, and were met by the Mayor and a committee of the Select and Common Council of the city of Lancaster. On Tuesday morning, the locomotive engines, Lancaster and Columbia, with their respective trains of passenger cars attached to them, and filled with the Governor, distinguished guests, committee of Councils, and a large number of citizens, left the head of the inclined plane near town, and in presence of a numerous concourse of spectators, moved off in gallant style on the route to Philadelphia. They arrived at Lancaster, a distance of 12 miles, in forty minutes, were received by the military companies under the command of Major Hambright, and after exchanging salutations with the crowd assembled at the rail road depot, went on their way amid the discharges of cannon and cheers of the people. An unfortunate and fatal accident occurred soon after they started thence, which occasioned the death of an aged man named Lint, who had placed himself on the track in order to view the procession, and who having retired to permit the first train of cars to pass by, and being prevented by deafness from hearing the other, was run over, had one of his legs amputated and was so seriously injured as to lead to a mortal result. The cars reached Philadelphia about 6 o'clock, P. M., and were welcomed by a multitude of citizens; the Governor remained there a day, and we understand returned on Thursday to Lancaster, where he partook a public dinner at Mr. Michael's. He yesterday morning went through our borough, was respectfully met by our volunteers, and hospitably treated by his friends, and hastened back to Harrisburg. Such is a meagre account of the ceremony of opening both tracts of the railway from Columbia to Philadelphia for public use, and we have only time to express the confident belief which we entertain that, as in its incomplete state it has given glorious promise of repaying all the expense that has been lavished upon it, so when it gets into full operation, that promise will be bountifully performed.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

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## DISCOURSE ON THE ORIGIN OF THE INDIAN POPULATION OF AMERICA.

By B. H. COATES, M. D.

Annual Discourse delivered before the Historical Society of Pennsylvania, on the 28th day of April, 1834.

(Continued from page 252.)

In the first place, a very material objection arises from the form and great length of the American continent. To derive the population of the whole from the north-western angle, requires the supposition of a continued chain of colonies during a long succession of ages, acquiring and using an immense diversity of languages, and pursuing each other along the huge ridge of the great American Andes, from Prince William's Sound, in the far north, to the extremity of Tierra del Fuego, a distance of one hundred and fifteen degrees of latitude, or of eight thousand miles. This long succession of occurrences is absolutely necessary to the theory; which is thus liable to the difficulty of requiring two extensive hypotheses at once. Several hundred colonies must be imagined to have issued from the same point, all completely isolated, as their languages abundantly show, unconnected by peaceful intercourse, but urging each other by war and the destruction of the game, throughout a third part of the circumference of the globe. Natives of the Mexican territory are represented, in the picture history of the latter, to have occupied their present seats from a period anterior by nine hundred and seventy-seven years to the epocha of the Spanish conquest; in this manner retrograding to about the middle of the sixth century. Thus, during a space of a little less than three thousand years, the interval from this period back to the deluge, these tribes must have succeeded each other throughout this route until the colonization of South America was completed.

The traces of such a series of human waves would naturally be looked for in a tendency to a denser population in the north, from which they emanated, and where the pressure must have been greatest, and the colonization of longest duration. Nothing like this is observed; the population of South America, and of Darien, Guatimala and Mexico being much greater in proportion than that of any country farther north. The marks of early civilization, too, one of the most important proofs of long residence in a fixed spot, are all, as in the older world, in favour of the tropical climates; and in the colder south, the nation of the Araucanians would seem to have possessed a degree of civilization, exceeding by a vast difference, any that can possibly be attributed to the inhabitants of the similar climates in the northern hemisphere, regions which would extend from Tennessee to Boston.

Another difficulty in the way of this hypothesis, or of any one which refers the origin of the Indian population to a single source, consists in the great diversity of physiognomical characters and physical structure which is found among them. The popular opinion on this point is indeed one powerful means of supporting the existing hypothesis. It is commonly held that all Indians are alike; and that he who has seen one of these people has, to any useful purpose of recognition,

seen them all. One uniform physiognomy is said to be common to the whole; partaking, as we have just seen, of that of the Mongolians. If this were established, it would undoubtedly have considerable weight in inducing us to ascribe them to a single origin, and of preference to that which we have been discussing. It is, therefore, the more remarkable that an opinion of so much importance, and so generally received, should differ so widely from the statements of those who have had the best opportunities of observing.

"I cannot help smiling," says Molina, "when I read in certain modern authors, and those, too, accounted diligent observers, that all the Americans have one cast of countenance, and that when you have seen one, you know the whole." "The difference between an inhabitant of Chili and a Peruvian is not less than between an Italian and a German. I have found the Indians of Paraguay, of the Straits of Magellan, and of other parts, most obviously and strikingly distinguished from each other by peculiar lineaments." In South America, according to Mr. Lawrence, we have the Caaiguas, with flat noses, observed by Del Techo; the Abipones, of whom many individuals have aquiline noses, by Dobrzhoffer; the Peruvians, with narrow and aquiline noses, by Ulloa; the Chileses, with rather a broad nose, by Molina, and the Islanders of Tierra del Fuego, with a very depressed one, by G. Foster.—"The same style of features," says Baron Humboldt, "exists, no doubt, in both Americas; but those Europeans who have sailed on the great rivers Orinoco and Amazons, and have had occasion to see a great number of tribes assembled under the monarchical hierarchy in the missions, must have observed that the American race contains nations whose features differ essentially from one another as the numerous varieties of the race of Caucasians, the Circassians, Moors, and Persians, differ from one another. The tall form of the Patagonians is again found by us, as it were, among the Caribs, who dwell in the plains from the delta of the Orinoco to the sources of the Rio Bravo. What a difference between the figure, physiognomy, and physical constitution of these Caribs, (who ought to be accounted one of the most robust nations on the face of the earth, and are not to be confounded with the degenerate Zambos, formerly called Caribs, of the island St. Vincent,) and the squat bodies of the Chayma Indians of the province of Cumana! What a difference of form between the Indians of Flacala, and the Lipans and Chichimecs of the northern part of Mexico!"

According to writers, the native Indians of Brazil are generally of a much more intense black than many of the other races; and, if we may give trust to the splendid plates of Spix and Martius, their physiognomy differs widely from most of those prevalent among the aborigines of the United States. It is a general remark with those who have spent a length of time among the latter, that the different tribes are easily known from each other by their varieties of physiognomy. Examples of this, both as to feature and complexion, are not difficult to multiply: but one recently communicated to me by Mr. Nuttall is the more interesting as bearing upon another point in the inquiry, the supposed resemblance to the Mongolians. According to this traveller, the Indians beyond the Rocky Mountains are generally char-

acterized by a flat nose, and gradually approximate to the Esquimaux; while the Sioux and others in the plains of the Missouri, are distinguished by a strongly marked Roman nose, so distinct as to serve the men of the two races to distinguish each other in time of war.

If we refer to etymologies, we shall find a still greater defect in the evidence of the identity of the American race. Several large masses, including various tribes, are pointed out as exhibiting traces of so many general connections; to which others may be added, as in our country, the Delaware, the Iroquois, and the southern or Floridan. With the exception of these resemblances, the labours of Vatter have been quite as unsuccessful in discovering marks of etymological similarity among the American languages themselves, as between these and the dialects of the older world. These families of nations, though sometimes extensive, differ quite as widely from one another as any of the other groups within the limits of human knowledge. At the same time, it must be confessed that they all possess the singular resemblance of what is called by our distinguished countryman, P. S. Duponceau, Esq. a highly *polysynthetic* character; a quality apparently derivable from a peculiar and characteristic turn of mind.

Such and so various are the arguments which have been used, as we have collected them, in discussing the celebrated theory of the Mongolian or so called Tartar origin of the American Indians. The inference must be drawn by my hearers. As far as it feels practicable to the humble compiler of these sheets to form an opinion on a subject which has exhausted so much learning, it appears to him to stand reduced to all reasonable probability, that a portion of Mongolian blood has contributed, in very ancient times, to swell the population of the two Americas; that this is most predominant in the north, the Esquimaux exhibiting strong traces of it in their physical conformation, and that a certain degree of likelihood accompanies the ascription of a share of it to some of the other tribes, particularly in those met with by Mr. Nuttall, west of the Rocky Mountains, which seem to melt gradually into the Esquimaux family.

To extend it to the whole population of this immense continent, from Greenland to Tierra del Fuego, seems, on the other hand, to be a strained and forced conclusion, improbable in itself, indeed appearing almost impossible, if we refer to the considerations which we have recently expressed, and incapable of being reconciled with the immense variety of languages, and other marks of numerous independent races. The inference which most commands our confidence, is, that America, like other sections of the world, was peopled from several sources; and that this was effected by numerous colonies, and in an antiquity so remote as to precede the records of history, the invention of most domestic mechanic arts, and the formation of widely diffused languages.

That this might easily have taken place may be obviously inferred from a fact familiar by its frequency, and at the non-application of which we must be allowed to express our surprise. We allude to the peopling of islands; the majority of which, throughout the globe, including nearly all those within climates favourable to human life, present precisely the same problem in this respect, with the continent of America. They have been found inhabited, and this from a period of antiquity more remote than any authentic history, by diverse and barbarous people; and to the islands must be added the continent of New Holland. To the author of these sheets, it has often appeared singular that the identity of the problem of their colonization with that in the case of America, had not been developed by the writers he had perused. The difficulty in the case of the islands is even greater than in the other instance. We have here no approximation to any older territory. Unless we suppose many violent

convulsions of nature, the colonists must have been conveyed by long navigation, and this with additional difficulties to which we shall shortly allude. The existence of barbarous colonies on such a multitude of detached islands, always excepting the forced and improbable hypothesis of so many separations by earthquakes or violent irruptions of the sea, sufficiently demonstrates the existence, at a very early period of the human race, of some means of navigation. All the arguments respecting the domestic arts and the training of animals which we recited with regard to America, are more or less applicable to the islands, and some of them with additional force, proving the remote date, and barbarous condition of the primal colonies. This being established, it would indeed appear to the writer, that the practicability of the settlement of America hardly remains a problem. If we can suppose savages wandering over the bosom of the ocean for thousands of miles, on rafts or in canoes, and enabled to find islands of a few miles in width, with such imperfect means as we can imagine them to have possessed, how can the question be asked in what manner similar adventurers could attain the proximate coast of a mighty continent, extending throughout a third part of the circumference of the globe? Indeed the real difficulty must have been less. Where one canoe, with its load of starving human beings, destitute of all knowledge of astronomy or geography, could discover and reach the shore of a small island in the midst of the pathless expanse, many others must have missed the narrow boundaries, and gone on wandering over the ocean, till want, sickness or tempests, put a period to their wretchedness. The prolonged coast of a continent, on the other hand, could not be missed by any one who persevered for a sufficient length of time in the same general direction. No compass, map, or scientific knowledge is necessary to reach with certainty, that which forms an impassable barrier between one ocean and another. Colonization might easily be effected at various times, and at a great number of independent points. Persons from Africa, from the Canary Isles, or from the territory supposed by Bory de St. Vincent to form the ancient Atalantis, from the Azores, and even from Spain, might easily make the short run to America, by the aid of the trade winds. This facility is peculiarly great where the Atlantic is narrowed by the projection of the two coasts of Africa and Brazil. On the west, similar occurrences are rendered more probable by the proximity and number of the islands, and by the proverbial calmness of the Pacific Ocean. Nor is it at all impossible that similar colonies may have reached our shores from China and Japan, or from the north of Europe; the only objection to these celebrated hypotheses arising from the absence of imported arts, and the total want of probable evidence towards identifying the descendants of the colonists. These sources may have contributed to the peopling of America; but the considerations which we have heretofore adduced sufficiently demonstrate, that, if they ever really did so, it must have occurred at a period of remote antiquity and extreme barbarism.

In proceeding to comment upon the individual races which may have thus combined to form the population of our continent, we shall adhere to the plan, pointed out in an early part of this discourse, of citing or mentioning but in a cursory manner, the various theories, and the statements collected from alleged history, of colonization by masses of civilized men. It is not that we wish to treat them with disrespect; but that the limits of this essay will not allow us to detail the very copious discussions to which they have given rise. This appears to us the less necessary from the arguments which we have already used to demonstrate that the early colonists of America could not have possessed the arts of civilization. These considerations must excuse us for what would otherwise be a blameworthy and disrespectful omission.

The race of which we would first speak is one to which we have often been surprised that so little attention has hitherto been paid; we mean the Malay. Scattered throughout a space of about one hundred and forty degrees of longitude, or about two-fifths of the circumference of the globe, from Madagascar to Easter Island, in the vicinity of America, characterized by the most striking peculiarities as a race, yet exhibiting a variety of modifications, this singular people have justly received the epithet Oceanic. Their colonies have been the most widely disseminated upon the face of the whole earth. Each little island, formed by the deposits of the sea upon some coral reef, through all the vast extent of the Pacific Ocean, may almost be said, if it contain the necessary materials for the support of human life, to be inhabited by men of this ancestry.

While they fill the whole of the smaller islands, they occupy the coasts of the larger; the negro race retreating to the mountains, before the superior knowledge, activity and warlike spirit of the Malays. Thus they possess the entire coast of Celebes and of Borneo, that territory so large that authors have doubted whether it ought not to be denominated a continent. In the great and fertile island of Java, they constitute partially civilized nations, possessed of a literature, a religion, and a splendid style of architecture; while in Madagascar they seem to approximate more to the adjacent Africans; and in the peninsula of Malacca, they appear to exist in such a fierce and untamed condition, that aided by the difficulties of the country, they have hitherto bid defiance to the prowess and ambition of the adjacent European conquerors. With the few agricultural exceptions enumerated, the Malays are distinguished by a restless fondness for navigation and piracy, and as far as they understand them, for all the employments and amusements of the ocean. In the South sea islands, they furnish the greatest swimmers in the world; and they display in every instance where they addict themselves to the maritime life, a considerable degree of skill in the construction and management of their vessels. In every residence, they are a fierce and warlike people, terrible to their neighbours, and living in a state of constant and habitual preparation for battle.

Among them are found, collected in particular localities, numerous individuals whose resemblance to the African negro is so great, that most writers have referred them to the same variety of mankind. The differences, if any exist, are slight, and not sufficient to do away the idea of a common descent. They are men of a black complexion, with short woolly hair and a flattened nose; and form a striking contrast with the fiery and cunning Malays. These black people are found in the Andaman islands in the bay of Bengal, in the continent of New Holland, the vast island of Van Diemen's Land, and the mountainous and woody interior of the torrid regions of Borneo and Celebes. Some of them much resemble the African blacks; others, as the New Hollanders, though evidently connected in race, possess less of the flattened nose, projecting jaws and woolly hair. Some of these, as the Andaman islanders, are considered by many travellers as the most imbruted of the human race, violent, sullen, stupid, and apparently devoid of humane feelings; while others, as the New Hollanders, are described as gentle and inoffensive, though very difficult to bring to a state of civilization.

Several of the islands of the South sea appear not to have been sufficiently examined. The inhabitants, though bearing much resemblance to their neighbours of the Malay race, have not as yet been adequately compared, through the medium of their languages, with tribes of the acknowledged stock. It is sufficiently obvious that both these and the island and New Holland blacks could only have reached their present seats by navigation, at least unless we resort to the hypothesis of irruptions of the sea. Such then are the races from which

we have next to inquire the probability of American colonization.

The first remark which we shall add to the above is that the races of the Malays and the Americans are in physical appearance extremely similar. In following up the extension of the former, we find it subjected to many varieties, still referred to a common stock. If we decide it to terminate at a given point, one would naturally expect to find, in that situation, a well marked and visible change in form and physiognomy. Now we think, if the characters of the two races, the American and the Malay, as given by physiologists and travellers, be compared with each other, and the great variations of both be farther taken into account, it would be difficult to point out any material, we would almost say any difference between them as characterizing their respective totalities. The distinctions between the European and the African are continually before us; they are striking and no one could possibly avoid observing many of them. Those between the former and the Mongolian, although less distinctly marked, are yet sufficiently visible; the small, narrow and oblique eye, the broad and flattened countenance and the depressed nose, will attract every one's attention. The Malay is distinguished from the European by his dark colour; to which is added an accumulation of smaller and less essential characters, the enumeration of which may embarrass the attention. Let us inquire whether the alleged fifth variety, the Americans, possess distinctive characters of equal value, or sufficient to distinguish it from one of its nearest neighbours.

The characters of the Malay variety of the human species, according to Blumenbach and his copyists, are, a brown colour, hair more or less black, and abundant, head rather narrow, bones of the face large and prominent, nose full and broad towards the apex, with a large mouth. The colour, according to Lawrence, varies from a light tawny tint, not deeper than that of the Spaniards and Portuguese, to a deep brown approaching to black. It is well known that some are nearly white. We shall follow Lawrence in copying the characters of the American variety, as he gives them more fully than Blumenbach. They are stated to be a dark skin of a more or less red tint, black, straight and long hair, small beard, which is generally eradicated, and a countenance and skull very similar to those of the Mongolian tribes—a statement, the correctness of which we have just been discussing. The forehead, it is farther said, is low, the eyes deep, the face broad, particularly across the cheeks, which are prominent and rounded. Yet the face is not so flattened as in the Mongols; the nose and other features being more distinct and projecting. The mouth is large, and the lips rather thick. The forehead and vertex are in some cases deformed by art.

The hearer will recollect the observations already made upon this alleged resemblance to the Mongolian variety. It should farther be added, that according to Cuvier, the Malays themselves are a branch of the Mongolian race. Having premised thus much, we ask the question, where are the distinctive marks? Different language is used to express the characters of the two nations; but where are the real means of discrimination which should be supposed adequate to distinguish two of the four or five great families of the human race? What is there in these definitions, indicating a difference greater than that which subsists between different branches of a great race; between the French, Germans and Italians, or indeed between many of the modifications of the Malay or of the American race among themselves? The imbruted, lower caste savage of Owhyhee, the handsome Marquesan, the animated, half civilized and fiery Javaneze, or to come to our own continent, the fair Cherokee, the black Brazilian, the gigantic Charib, and the stunted Chayma, mentioned by Humboldt, and to proceed farther, the Esquimaux, certainly present differences far greater than any which

may be deduced from the characters here presented. None certainly can be inferred from these at all comparable to those which subsist between the Caucasian, and the Mongol, the African, or the Malay. We may be allowed, too, to note that the alleged red of the Indians is frequently artificial; and that the appellation "red men," is generally claimed by these people, from an idea of the superior beauty of the colour. Our ordinary habits of observation have not led us to identify red as a tinge of striking prevalence, sufficient to distinguish the dark tinge of the Indian from the brown of other races. We may add, that the Malay features, which we have frequently inspected, never appeared to us to have a well characterized distinction from the Indians sufficient to constitute a section of mankind; and that the craniums of the two races in our collections are nearly identical, and could not be preserved from confusion without artificial marks.

We see nothing, therefore, in the features of the Indians which forbids their descent from Malay colonists. The difficulty in regard to language appears at first view far more imposing. Of this we may judge in part from the compilations of Vater, of which we have already given an account. Yet it ought to be added that, in this point, the examination which that distinguished man was enabled to make, was necessarily defective. The languages of the eastern and south-eastern islands in the South sea, more immediately adjacent to our continent, according to Babbi, have been but very imperfectly examined; and whether resemblances shall or shall not in the future, be found between them and the dialects of America, it is not admissible, at the present time, to cite them as affording a difficulty, the existence of which has not yet been attested. It cannot be assumed that they differ from the languages of America, while we know not what they are. It appears from the tables of the writer last named, that among tribes which resemble the other inhabitants of the South sea, (and may therefore be reasonably supposed of the same Malay race,) languages have, notwithstanding, been discovered which do not appear to exhibit a Malay origin. If this be confirmed by future investigations, the process of forming new and diversified tongues, among the rovers of that nautical race, may be regarded as having commenced in the islands; and it is, therefore, in no respect difficult to suppose its extension to the mainland of America.

This subject will, perhaps, receive additional illustration from a reference to the mode in which such a colonization as that of which we have been treating might reasonably be supposed to have taken place.—The most plausible explanation which we can imagine of the manner in which remote islands become occupied by men in a barbarous state, is by small parties, wandering in canoes or boats of some description, and either driven by storms or led by errors in their estimation of the distances they traverse, until they have lost the power of returning to their native coasts. In such a situation, it must undoubtedly be supposed that a very large portion would be destroyed; but individuals might survive till they reached the shore of some unknown land. It is capable of being imagined that similar voyages might have been attempted with design; but we must still suppose this to have taken place in small parties. Any other supposition than this, any one which presumes a deliberate intention to discover new countries by larger masses of men, would imply the possession of something like civilization, and of more of the domestic arts than are found among the American Indians. Indeed, the small islands from which the departure would, in the present state of our earth, be obliged to take place, could hardly be supposed capable of furnishing larger bodies of navigators. We have, therefore, before us the spectacle of a numerous series of islands, which must, beyond all reasonable doubt, have been colonized by small numbers of barbarians, wandering in boats or on rafts, from one

resting place to another, suffering every disaster that could be inflicted on them by the ocean, the weather, and deficiency of food; but surviving to furnish inhabitants to nearly all of them. In what manner can these be supposed to have reached the main land, if not in detached families of two, three, four, or more, in a starving condition, and after a separation of many generations from any parent stock? We will not say that the multiplicity of American languages is capable of explanation; but it does appear to us, that such a colonization as this goes nearer to furnishing an adequate one than any thing that can possibly be deduced from the Mongolian hypothesis. The one requires the supposition of an immense succession of colonies, succeeding one another throughout the world-girding length of two continents, and by some means hitherto unexplained, becoming isolated in their acquisitions, sufficiently to permit them to develop the enormous variety of languages which has been alleged to be found among their successors. The other draws a great number of detached families, from different islands, and perhaps from the continent of Africa, at different and distant periods, in a state of ignorance and misery, and lands them at as many points as may be supposed accessible to such, along the immense western and eastern coasts of the two Americas. If we suppose these the offspring of the adjacent islands, they are such as have been for an indefinite time secluded from the rest of the world; and have, therefore, enjoyed the best opportunity of forming distinct languages. Arriving in the vast forests of the new continent, they must have found themselves for hundreds, perhaps, in some instances, thousands of years, as completely insulated as when they inhabited their remote islands; their progeny not encountering those of others, till, after a long lapse of time and a great increase of numbers, they were induced to spread themselves or to migrate in search of food. Can any combination of circumstances, short of miraculous intervention, be imagined more capable of the formation of a great number of languages?

The condition in which we have endeavoured to show that colonists from the remote Malay islands must be supposed to have arrived, will perhaps correspond better than most others, with the ignorance of arts and of domestic quadrupeds which we have described as having existed among the American Indians. To this we may add some similarity of character, particularly in their proneness to war on the small scale, and their peculiar acuteness in conducting it; unlike the barbarians of the Mongolian race, who generally spend their time in the care of cattle, and have seldom been represented in the warlike character unless in large masses, and urged by powerful chiefs. There are perhaps few races in the world so much addicted to petty warfare as the Malays and the American Indians.

We apprehend that we can find within the bounds of America herself farther arguments, not without their weight, tending to point out the South Sea Islanders as the principal source of American population. In contemplating the masses of human beings which inhabited the surface of this vast continent, if we look for the points of greatest population, we shall find them in the west. If we look for the traces of ancient civilization, they are rarely to be met with, and incomparably inferior in number and magnificence in any regions which are not easily accessible from the western coast. If we inquire for the traditions of the natives, at least in northern America, amid the confusion and inconsistency with which they are justly reproached, we may still discover a predominant opinion directing us to the same quarter; a circumstance which has already been used to support the Mongolian hypothesis. One of the largest masses of Indian population, as far as is gathered from early writers, seems to have been in the empire of Peru. In this, the arts were carried to a height that astonished the conquerors. A large population, governed by laws, and by a hereditary race of kings

and priests, was for the most part peaceably engaged in the labors of an extended and complicated agriculture, in the mechanic arts, and in the improvement of the country by the construction of roads, temples, and monuments. South of these, we find Chili, a highly populous country, and among its inhabitants, the warlike Araucanians, whose numbers and prowess for centuries resisted the Spanish arms, and who do not appear to have ever been entirely subdued. Farther north, the ancient Mucacas are situated with a similar relation to the Pacific Ocean. The continuation of this line of populous empires and republics embraces next the thronging tribes of Guatemala and the celebrated monarchy of Mexico. These regions, it is true, extend to the borders of a sea communicating with the Atlantic; but it should be considered that this arises from the deep indentation of the continent produced by the Gulf of Mexico and the Caribbean Sea, and that the two populous countries we have named, although accessible from the Atlantic, are more immediately so from the Pacific Ocean. The dense population described by the Spanish writers as having been encountered by their countrymen in Florida, the West India Islands, and the Spanish Main, countries lying exposed to the Atlantic, possessed the advantages, in colonization, of great facility for canoe navigation. They do not, moreover, appear to have existed in such large masses, or in such a high state of civilization, as their neighbors of Mexico. Farther north than this, we do not hear of a dense population; but in the place of it, along the western coast, we have the original country, the *officina gentium*, to which numerous tribes allege that they can trace their origin. As we have already had occasion to state, the various nations of Toltec or Aztec race, that have inhabited the fertile mountain plains of Mexico, are alleged to have proceeded from the vicinity of California; and the traditions of a western origin which have been gathered from our own tribes, point towards a region still farther north.

We have thus endeavored to exhibit the arguments which appear to us to indicate the Malay or Oceanic race of the South Seas, as having probably furnished the largest share to the population of the two Americas. We have aimed to support this by adducing the fitness of these people to furnish detached and isolated colonies, of a single family at a time, to various and remote parts of the coast, and in a state of barbarism and ignorance sufficient to account for the production of numerous and unconnected languages; by urging their ignorance of history, arts and domestic animals, the adequate resemblance of their present descendants in the islands of the South Sea to the American Indians, their vicinity, their habits of navigation, and the fact of their having colonized the most widely spread portions of the globe of all the known varieties of mankind; and finally, by remarking the existence of the largest masses of people, in the most advanced stage of civilization, and apparently during the greatest space of time, along the whole western coasts of these continents, as far as these traverse the more habitable zones of the earth.

In thus endeavoring to disprove in favor of the Malays, the commonly established supposition of the origin of the American Indians from a single locality, it has not been our design to exclude those other sources from which, with more or less probability, it can be urged that a portion of their progenitors were derived. We have already mentioned the resemblances of the Mayo language of Honduras to some of the dialects of Africa. We may quote from Pauw's researches, to which however we are far from giving implicit credit, the statement that Raleigh met with negroes in Guiana, Vasco Nunez, in Quarequa, and Rogers, in California. In addition to this, we have already cited several other considerations, among which are the trade winds, and the great contraction of the Atlantic Ocean from the simultaneous projection of the two continents. An

oblique line from Sierra Leone, in Africa, to Paraiba, in Brazil, measures, upon the map, about 1890 English miles. These circumstances would certainly tend to facilitate migration from Africa to South America.

Of the other sources from which it has been suggested that this continent may have received a portion of its population, few remain but such as imply some degree of civilization on the part of the colonists. To all these we have made a partial reply in that part of our observations intended to prove that America was colonized by a barbarous people. Neither the Scandinavians, as we find them in history, the Welsh of Prince Madoc, the Egyptians, the Mongolian conquerors, nor the Chinese, could possibly have been the settlers of a new continent without leaving behind them, universally dispersed, the knowledge of many instruments, weapons, metals and domestic animals, and we may add, organized languages, the traces of which, from their intrinsic usefulness, would not have entirely disappeared. A tribe originally numerous and possessed of iron and the sword, could never have sunk in extermination beneath the stone hatchets and arrows of our Indians; nor if they had, would their instruments have been lost by their successors, or escape our search in examining their tombs. We have, for these reasons, laid out but little space for the inquiry into the merits of various theories of American colonization from such sources. It would, however, be an injustice to our subject to pass them over without notice, or to omit to remark the vast extent of curious and learned inquiry into which they are calculated to lead us. They have occupied much space, in many volumes. We shall give a hasty indication of some of them; abridging nearly the whole from the ample list of Professor Vater.

It is scarcely necessary to mention the mere supposition of some biblical commentators, that the Naphthim, a tribe of the descendants of Misraim, enumerated in the Scriptures, were the Americans; or that of Arias Montanus, that America was the Ophir of Solomon's commercial navigation. Later critics have, we believe, referred Ophir to Ceylon or Malacca. The similarity between the Mexicans and the ancient Egyptians, to which we have already alluded, is such as at first view to assume quite a different aspect. The origin of the former from the latter has been maintained by Huettius, Athanasius, Kircher, Siguenza and Clavigero. The resemblance between the two nations must be confessed to be striking and astonishing. It extends to their pyramids, to the ideographic portion of their hieroglyphics, to a part of their mythology, to their manner of computing time, to their clothing, to some of their customs, and even, if we trust the pottery and sculpture of the Mexicans which have been exhibited in this country, and the plates in the works of Humboldt, to their physiognomy. In the Vues des Cordillères of Baron Humboldt, are inserted several ancient Mexican paintings, bearing a truly startling analogy to the Scripture narratives of Noah and the deluge, of Eve and the serpent, and of Cain and Abel. On this discussion we have neither space nor time to enlarge; but we will state in brief the arguments with which we would rebut this hypothesis. They are—1. That Mexico and Egypt alike lie very remote from the point of approximation between the two continents. 2. That the remote navigation of the Egyptians is of very doubtful authenticity. 3. That, the traditions of the Mexicans referring their origin to the north-west, this consideration militates against the possibility of that country having been reached by the Egyptians over the sea, and compels us to the supposition of a long migration through the countless tribes of the land passage, round more than half the world. 4. That Mexican civilization appears obviously a growth and refinement of the ideas and habits still found among the barbarous tribes farther north. 5. The whole remaining reasoning which we have already adduced to show that the origin of the

Americans must have been from a barbarous people; the Egyptians, like other civilized nations, having been acquainted with the use of various metals, domestic arts, and subjugated animals, and with an organized language and a history. From these considerations we conclude that the resemblance of the Mexicans to the Egyptians is the simple effect of that similarity which exists between the minds, bodies and necessities of men in the same stage of civilization in whatever part of the world.

The hypothesis of the origin of the Indians from the Jews, and in particular, from the ten lost tribes, is supported by a number of writers, some of whom we have already cited. Gomara upholds their descent from the Canaanites, expelled by Joshua from the promised land. Le Compte and Horn name the Phœnicians, in consequence of their extensive navigation. Acosta and Moraez suggest the facility with which Carthaginian ships could run down the trade winds, and in a short time arrive in America; where their posterity, isolated from the rest of mankind, might relapse into barbarism; and Garcia quotes ancient authorities which describe the erection of great buildings by the Carthaginians, and compares these with remains found on this side of the Atlantic. A certain degree of importance is ascribed to these considerations by Vater; as well as to the sacrifices of children by the Carthaginians, and by the inhabitants of New Grenada. De Laet defends the claims of the ancient inhabitants of Spain to the reputation of having furnished a portion of the population of America. These, when expelled from their own country, by the cruelties of the Carthaginian and Roman conquerors, he supposes to have migrated to the islands on the western coast of Africa, and from these beyond the ocean. In confirmation of this, he quotes a passage in Pliny, describing large buildings found in uninhabited islands on the coast of Africa. Charron and Postel maintain the hypothesis that the Gauls colonized our continent, and defend it by referring to the custom of human sacrifices. Milius ascribes the colonization to the Celtic race, and De Laet and Valancey endeavor to confirm it by a comparison of languages and by other evidence. Several of the coincidences in language which are founded on words selected from La Hontan, are shown by Vater to be erroneous or exaggerated; the remainder are few and might easily be accidental. In the work of De Laet is contained, in an extract from David Powel's *Historia Cambrie*, the celebrated and romantic story of the expedition of Madoc, son of Owen Gwyneth, and the origin of the supposed Welsh Indians; and the glory of the exploit is proclaimed in the poems of Meredith, published in 1477. Prince Madoc, disgusted with the quarrels which took place among his brothers after the death of their father, collected a large number of followers, together with several vessels, which he provisioned for a long voyage, and set out in search of unknown countries. In the distant west, he discovered a fertile and uninhabited region; which he left in possession of a part of his followers, while he repaired to Wales, and led a new colony to his settlements, from which he never again returned. The searches made within this continent, together with the various reports of Welsh Indians, to which this narrative has given rise, are well known to antiquaries. We observe, by a note of Mr. Duponceau, in the recently published volume of the *Transactions of this Society*, that a native of Wales is now in the United States, engaged in this hitherto fruitless research; exhibiting another example of that generous devotion to the claims of consanguinity and the glory of their ancestors, for which that high-minded people have so often been renowned.

The origin of the Americans has been also ascribed to another great maritime nation, the Norwegians or Normans; and this hypothesis is in part maintained with all the authority of the celebrated Grotius. Ancient Icelandic and Norwegian narratives relate the progress

of their ancestors from Iceland to Greenland, and from thence to Estotiland and Skralingaland or Wineland the Good; which are taken to be parts of the continent of America. Our readers will find a number of curious details on this subject in the recently published volume of the *Transactions* to which we have already alluded. We may surely be allowed to refer to the suggestion that the name of Greenland, so incomprehensible when applied to a region of eternal snow and ice, may be explained, if we suppose a confusion in the minds of these unsentient voyagers, between that sterile country, and parts of the coasts of Labrador and New England, which may have been visited in different expeditions. Grotius has also remarked the resemblance between some religious customs of Yucatan and those of the Ethiopians; from which he anticipates the inference, to which we have already alluded, on other grounds, with regard to the adjacent territory of Honduras, that colonists may have reached that vicinity from Africa. The same illustrious writer points out similarities between the customs of Peru and those of China, and attributes the colonization of the remaining portion of South America to the Javanese. As remarked by the judicious Vater, the resemblances with China are only such as may be attributed to a similarity of character and an equal degree of civilization. It is proper to add that Fischer unites with Grotius in the Chinese hypothesis; and that De Guignes endeavors to prove, by historical researches, that the worship of the Grand Lama was transplanted to America in the year 456, and that a Chinese ship formerly sailed annually, by the way of Kamtschatka, to the north-west of California, carrying on an extensive commerce. Sir William Jones endeavors to draw a parallel between the Hindu mythology and customs, and those of the Peruvians, sufficient to establish a connection in the same manner as attempted by Grotius in regard to the Chinese. Of the theory of Forniel, which refers the origin of the Americans to Japan, and to the coasts of Asia lying northwards of that Archipelago, it is hardly necessary to speak; as according to the rest remark of Vater, this is the vicinity by which the Mongolian immigration must be supposed to have arrived, and the former supposition is therefore involved in the one already so fully discussed.

According to J. R. Forster, the population of America may be supposed to have been influenced by the shipwreck and destruction of the great fleet of Koblai Khan, with which, in the year 1281, after the conquest of China, he attempted that of Japan. The fleet was lost in a storm, and it is not too much, in the opinion of Mr. Forster, to suppose that some of his vessels reached America. Humboldt quotes, from the annals of China, a statement that a tribe of the Kiong-nu, with its leader, was completely lost sight of in Northern Siberia; and then inquires whether these were the Aztecs of the Mexican territory. Acosta gives it as his opinion, that men and animals reached America, by the northern extremity, from both Europe and Asia; and adds, in order to confirm the idea that the population of America reached that country by an over land route, that the islands which were difficult of access from the continent, were found uninhabited. With regard to some of them, as Juan Fernandez, this is known to be correct. The Gallipagos were scarcely capable of supporting human life. Garcia, in commenting upon Acosta, remarks that America was peopled from various sources, and by various means, both accidental and intentional; and he enumerates among the parent nations, Greeks, Phœnicians, Tartars, Chinese, Carthaginians, Jews, Romans, and ancient Spaniards. De Laet apprehends that Spaniards probably reached America by the way of the Canary Islands and the Azores; and that Irish colonists probably also arrived there. Besides these, he imagines Scythians to have also contributed to swell the mass, and to have introduced, in South America, the barbarous practice of cannibalism. As is well observed by Vater, the existence of cannibalism

proves nothing; as many uncultivated nations were alike guilty of this enormity. This horrible custom is, we think, best explained by Humboldt, in a manner to which we have already alluded. De Laet adds, that South America was probably colonized from the Islands of the South Sea; though this idea, maintained by Dr. S. L. Mitchell, is rejected by Charlevoix and Vater, as more improbable than the route by North America and Tartary. The theory of George de Hornn, although certainly of less authority than those of Grotius and Garcia, is at least equally elaborate and complicated. We sketch it from the same source from which we have borrowed most of the above. He rejects Negroes, the inhabitants of the north of Europe, Greeks, Romans, Hindoos, Jews, Christians, and Mohammedans. America, according to him, was first settled from the north, by Scythians, who were followed successively by Phenicians, Carthaginians, Canaanites, and Chinese; and many detached colonists of different nations, including probably some Jews and Christians, were added to the list after this continent had been fully peopled. The first arrival of the Phenician race must have been in very remote antiquity. The second was that mentioned by Diodorus Siculus; where he states that the Carthaginians sent colonies to an island in Western Libya. It is highly probable continues De Hornn, that among the fleets of Ophir, some of the crews may have been driven to America. Peru and Mexico were colonized by people of Cathay, of China, and Japan, with the addition of some Phenician and Egyptian adventurers; which mixture is designed to account for the similarities to the older world noticed among this interesting people. Manco Capac was a Chinese prince; and two hundred years afterwards, Faclur, king of China, after being dethroned by Koblai Khan, left China with a thousand ships and a hundred thousand of his subjects, and arrived in America. De Hornn notices the absence of horses at that epoch in China; an observation which had been made of a part of the Scythians by the advocates of a former theory. On this complicated and detailed hypothesis we shall make no comment; but will content ourselves with extracting the opinion of the great German writer whom we have so often quoted. "Such is the entirely uncertain and tottering structure of possibilities erected by this ingenious ethnographer."—"The utmost which can be attained by conjectures linked together in this manner, and which is not overthrown by contradictory facts, is bare possibility." The scientific world long waited with impatience for the results which should be attained by the prolonged and multitudinous researches of Baron Humboldt. This learned and indefatigable investigator, knowing better than any other the obscurity of the subject and the want of any certain conclusion, has in a great measure confined himself to the collection of materials with the addition of occasional comments; and has not, in any of his works which have reached our hands, combined his ideas on this interesting inquiry into an extended and systematic view. They are to be found scattered through various parts of his voluminous writings; but particularly in the *Vues des Cordillères*. M. de Humboldt cites a great number of instances of remarkable resemblance between the Mexicans and the ancient Egyptians; which are principally included under the heads already enumerated. He also mentions a variety of analogies, of a less striking character, between other nations of the American continent and various portions of the population of the older world. The learned author expresses the belief that these arise from a connection between the two continents in very remote times, and that probabilities are in favour of the passage by Behring's Straits and the Aleutian or Fox Islands; but he confesses freely that all efforts at exhibiting the precise course, the epocha of migration, the chain of affiliated nations, or in fact any of the circumstances of the transaction, have hitherto resulted in entire disappointment.

From "The Book of the Indians" of Mr. S. G.

Drake, (an interesting volume recently put into our hands by the politeness of the author,) we compile an additional reference which we do not recollect to have seen elsewhere. Noticing the alleged mention of a western continent by Plato and Seneca, the tragedian, Mr. Drake cites a passage from Ælian, in which again occurs a citation from a writer of the age of Alexander the Great. In this quotation we are told of a great and boundless continent, producing animals and men of extraordinary stature and longevity, inhabiting many great cities, and possessed of vast quantities of gold and silver. This would seem to point out reality in the idea of voyages having been made to this continent at that early day, by the maritime nations of the Levant.

Such is the list of hypotheses of the primeval colonization of America which we have been able to abstract from the best accessible authorities. It may have been fatiguing in the recital; but some reflections will naturally present themselves which may perhaps be indulged. It is at once apparent what a vast field for laborious inquiry would be opened by attempting to discuss all these various theories. Their very number is itself an argument against them. It is impossible, of course, to do any justice to them within the bounds of the present essay; and to select a single one or any small number, on which to dilate and fill up a large portion of our time, would be an undue preference. We have therefore passed over slightly many curious statements of a wild and adventurous character, which otherwise might have attracted your attention, and perhaps excited a deeper interest. It is time to approximate a close to these observations, extending perhaps already beyond a reasonable length; and we shall therefore proceed to sum up our conclusions. From a review of all that we have compiled, the mass of evidence appears to us to indicate the inferences which we are now proceeding to append.

We infer that the main bulk of the American population is probably derived from colonies of barbarous people, in the rudest state of life which can be imagined compatible with the preservation of their lives and the increase of their numbers. That the various colonies of civilized men which would appear from historical documents to have, at different periods, reached this country, were probably in many instances massacred, or in other ways destroyed by the unfavorable circumstances of their situation; as has been the case with so many colonies of the fate of which we are furnished with authentic accounts. That the survival of any of them, from the total absence of the domestic arts and knowledge of domestic animals which they must have introduced, is at best extremely problematical; and that they cannot have given rise to any considerable proportion of the population of America. That the Esquimaux races are apparently of Mongolian or Tartar descent, their predecessors having arrived by Behring's Straits or by Alaska and the Aleutian Isles; and that after their formation into tribes and the production of a language, they appear to have transmitted back to Asia the colony of Tschuktshi. That it is very probable that much of the blood of the adjacent Indian tribes is derived from the same source, particularly those of the north-west. That the origin of the great bulk of the Indians remains without any explanation accompanied by a satisfactory degree of probability. That the derivation of these, particularly in South America, from the Mongolian source, is hard to be conceived when we take into view the difficulties of the case; and that the pre-umption has considerable force that they are principally the descendants of colonists from the islands of the South Sea. And finally that a certain degree of probability attaches to the hypothesis of African emigration; a question to be elucidated by farther inquiries.

It must certainly be admitted that these conclusions form another and a striking example of the obscurity and imperfection which so much abound in the results

of a very large portion of human science. They strongly bring to the mind a criticism of our learned and venerable member, P. S. Duponceau, Esq. While the philosophers of Europe have been employed in speculations and inquiries, directed, beyond a vast ocean, to the origin of the natives of America, some of them have overlooked a problem, yet unexplained, which lies at their own door; the genealogy and cause of the organic peculiarities of the natives of Africa.—A section of the globe, within a day's sail of ancient Greece and Rome, nay, which contained ancient Egypt within its boundaries, has had no explanation given of the very remarkable peculiarities which characterize nearly its whole population. We may add, that until the last few years its great rivers were never explored by navigation, its deserts never traversed by civilized men, the conquests and glory of ancient empires were confined to its northern border, and, while the illimitable regions of North and South America have been explored, subdued, delineated in all directions, that continent which was the cradle of all our civilization, remains throughout nearly its whole extent, a blank upon the map of the globe. Contemplations such as these are calculated to impress us with a distrust of the boasted prowess of our own race; and while we are toiling with self-gratulation in the fields of science, inevitably and perpetually remind us of the littleness of man, and the small space he occupies when taken into comparison with the agencies of nature and the destinies of worlds.

— And here, gentlemen of the Historical Society, might properly terminate our dry inquiry into the origin of the American Indians. But I see before me those whom a benign providence has sent into existence for the purpose of softening and ameliorating a world which, if abandoned alone to the passions of men, would be too sanguinary and ferocious; those whose society is at once the source and the reward of civilization and morality. The occasion is tempting to urge the cause of the unhappy aboriginals, and must not be neglected. What are the inquiries of abstract research to the claims of living and suffering humanity? It is to woman that we can ever appeal for all that is generous in self-devotion and gentle and lovely in performance. You possess the power to guide and control public opinion. You mould the statesman and the warrior, and convert their cold and cruel calculations into plans of benevolence and humanity. Nothing but woman can bid the demon of avarice to pause in his career. It is to woman, therefore, that I address the cause of the unfortunate beings who have been the subject of this discourse; a race suffering from every ill that can be inflicted by the combined agency of the thirst for land and the thirst for gold. We have habituated ourselves to consider the Indians as something poetical. We call them Lenni Lennape, and write odes, elegies and tragedies to their memory. To the unfortunate Delaware, life, alas! is prose. They are a suffering and unhappy race, ruined by the shock of successive wars, for quarrels not their own, or driven to combat by distressing necessity. Wandering upon the banks of the Wabash or the Arkansas, while we possess their old and well known seats, they are still the same people who were so long the faithful allies of Pennsylvania; the men who succoured our ancestors and enable them to form a state. Does not that state owe something to its former friends and partisans?

#### PHILADELPHIA AND NORRISTOWN RAIL ROAD.

The Philadelphia and Norristown Rail Road has been completed as far as Manayunk, and was opened on Saturday. A large number of the stockholders and friends of this valuable improvement, who had been invited to participate in the interesting ceremonies of opening the

road, started from the depot, corner of Ninth and Green streets, a few minutes after twelve o'clock, in the remarkably comfortable cars provided for the occasion. Immediately on entering the new road where it diverges from the old line, as originally laid out, the general appearance of the road at once indicated the judicious skill and judgment of the gentlemen by whom the work has been planned and so successfully executed, while a closer inspection, convinced the company of the solid and substantial manner in which the rails have been laid, and the work executed throughout the whole line. The bridge thrown across the Wissahiccon, at an elevation of about 80 feet, was particularly the subject of admiration. It is a fine specimen of bridge building, as regards both the masonry and wood work.

Those interested in the business of the Philadelphia, Germantown and Norristown Rail road, have just reason to be gratified, not only at the admirable manner in which the road has been constructed, but equally so at the energy and industry displayed, the whole line having been under contract only six months, within which brief space the grading has been commenced, the whole ground substantially gone over, and the cars actually put in operation. This has been accomplished under the general supervision of our efficient townsman, Mr. Strickland, while great credit is due to Mr. Otis, the intelligent contractor, and Mr. Campbell, the engineer under whose immediate inspection, the work has been so satisfactorily executed. To Mr. Nevins, the president of the company, as well as to Mr. Wright, its secretary, and Wm. D. Lewis, Esq. to whose care and ability much is due, the stockholders are largely indebted for the gratifying manner in which its affairs have been resuscitated and brought into successful and vigorous operation.

That the stock of this company is destined, and at no distant period, to become second to none in value, as its business will be to no other line of communication in importance, appears to be generally conceded.

Through the flourishing borough of Norristown, there is already an extent of travelling beyond any thing the mass of our citizens have any idea of. Upwards of two hundred passengers daily pass through it, and the number will doubtless be doubled on the completion of the important improvement now in agitation. Independent of these, there are from 40 to 50 passengers daily passing between that borough and our city, while the amount of merchandize transported daily is very considerable; 14,000 pounds is said to be dependent upon a single manufactory, of which there are already several, and others will soon spring up. The extensive and invaluable marble quarries in that vicinity will form no inconsiderable item in the business of transportation.

But viewed as the commencement of a grand line of internal improvement, which, passing through the fertile valley of Berks, onwards to the great coal regions of Pennsylvania, and thence beyond Pottsville, extending to Sunbury, forming an extensive chain of communication between Philadelphia and the Susquehanna; this rail road, of which we here witness the incipient stages, rises in importance and to an extent which can scarcely be portrayed. The immense region extending up to the line of New York, and embracing in its range, mines of minerals and valleys of inexhaustible richness and fertility, open a prospect in that direction of great importance, and furnishing an unbounded trade, of which the Philadelphia, Germantown and Norristown rail road must be one of the principal channels.—*U. S. Gazette.*

From the Philadelphia Gazette.

#### DREADFUL RIOT.

##### *Destruction of Property and loss of Life.*

Among the many disgraceful scenes of outrage which took place yesterday, that which occurred in the town-

ship of Moyamensing, at a late hour in the evening, appears to have been the most serious in its consequences. Besides the destruction of a block of five handsome and valuable houses, the property of our townsman Mr. Robb, it appears that several individuals were seriously injured, and perhaps one or more killed. The particulars of this dreadful scene of violence, as well as we could learn from the various contradictory statements made on the ground this morning, appear to be as follows.

The Whigs of Moyamensing had established their head quarters in the tavern at the corner of Christian and Ninth street, opposite the District Hall, where the elections are held. The Jacksonmen established their head quarters on the opposite side of the way, by the erection of a booth on the pavement, having failed in the attempt to procure the use of an untenanted house in the same row with the Whigs. In the course of the evening, the Jackson party, being much stronger on the ground than their opponents, committed it is said many assaults upon peaceable Whig voters, by breaking their lanterns, tearing away their electioneering bills, and finally in knocking down and beating them. This course of conduct appears to have been pursued until human nature could submit to the aggravating insults no longer. The Whigs made a rally and to punish the insolence of the Jacksonmen, made a rush on them, and cut down their hickory pole. The ground then became quiet—the disturbance was considered as finally settled, and peace was fully restored. This state of things, however, continued but a short time, the opposing party, in the interim, had been collecting their forces from Southwark, the city, and upper districts, and suddenly and unexpectedly appeared on the ground in great numbers, and made a desperate attack upon the Whig Head Quarters, driving into the house, nearly every Whig on the ground. They deliberately set fire to the splendid Liberty Pole in front, and the watchbox at the corner, and then entered the tavern and adjoining houses in the row—destroyed the furniture in those which were tenanted—threw out the beds and bedding, &c. and piled them up in the street, and set the mass on fire!

Still unsatisfied with the work of destruction, the mob ransacked the lower rooms of the Whig tavern, threw out the furniture upon the blazing pile in the street, and grossly assaulted all upon whom they could lay their hands. The landlady and her shrieking children were driven with violence into the street, and severely maltreated. The persons in the upper rooms, now considering that the object of the mob was to murder them, procured fire arms, and from the third story windows and the roof, fired into the street. Blank cartridges, it is said, were used first, but these were insufficient to intimidate the mob. Subsequently, we learn, several in the street were injured by buck shot, and it is said that one individual died while being conveyed to the Hospital.

The crowd in front who stood their ground firmly, and replied to those inside by tremendous volleys of bricks, stones and other missiles, at length made a desperate rush inside, and cleared the premises, not only of human beings, but of furniture, leaving not a particle untouched. Soon after, whether from accident or design, we are unable to state, the tavern took fire, and the flames spread rapidly and fiercely in every direction. The situation of affairs was now awful and appalling.—The mob had entire possession of the whole place, not a solitary Anti-Jackson man having the temerity to show his face. The alarm of fire was sounded, and the fire companies arrived on the spot, but the mob would not permit them to go into operation. Many were openly threatened that if they put a drop of water on the fire they would be beaten. One or two companies, however, persisted in their exertions, and one attachment was led out, but it was soon dragged away by main

force, and the whole block of buildings was permitted to burn down!

These particulars embrace, we believe, all the facts of the case, without coloring or partiality. The scene altogether was most disgraceful to the country. The houses destroyed were the property of an unoffending citizen, who had acquired them by hard industry.—His loss will probably not fall short of \$5000.

Oct. 16, 1834.

The account of this disgraceful affair which we published yesterday, appears to be substantially correct, as the leading particulars are fully confirmed by the statements in other papers. On subsequent inquiry it does not appear that any individual has died of the wounds received on the evening of the riot. Several will suffer severely, but well grounded hopes are entertained that all will recover.

As we have no desire, in noticing this unfortunate occurrence, to make any statement not warranted by facts, we give below two versions of the affair, taken from papers of opposite political character. The first account is from the American Sentinel, (a Jackson paper) of this morning. It will be seen that our particulars of yesterday are re-iterated, with the addition of a fact which escaped our memory while writing—that among the rioters were observed a number of persons carrying Ash lamps.

From the American Sentinel.

The following are the principal facts upon which reliance can be placed, that we have been able to collect. A short time previous to the closing of the polls, some shoving and scuffling took place between the two parties in their endeavors to get their voters to the western window of the Commissioners Hall, in which the election was held, which resulted in the Jackson men, who at the moment happened to be the weaker party, being driven from the window and their lamps being broken. They retreated and the fight was shortly afterwards renewed with clubs and stones, to the east of the Hall, where the Jackson men had a hickory pole erected, and where there were two tents which served as their head quarters. The tents were demolished, and the hickory pole cut down, as is alleged by some of the Jackson men, with the intention of using it for the purpose of forcing the Hall and carrying away the ballot boxes, as it is said had been previously threatened. At this time, one or more muskets were fired, and several of the Jackson men seriously hurt. Intelligence of what was going on was speedily conveyed to Southwark, upon which a number of persons hastened from thence over to Moyamensing.

On the appearance of this reinforcement, the contest was renewed, and the whigs forced into the house.—About this time, a strong party from the Northern Liberties, and Spring Garden, with their lamps, and a band of Music, appeared on the ground. They had previously visited the residence of Gen. Ash, the democratic head quarters in Spring Garden, and the city, cheering their friends at their victory, but it does not appear that they had any knowledge of the disturbance in Moyamensing, until they arrived in the vicinity. The party in the house finding themselves closely pressed, had recourse to their muskets, of which fifteen or twenty stood, were in their possession. How or where they procured them, we have not heard. They fired repeatedly from the windows and roof, and wounded fourteen or fifteen persons, several of them severely.—The Jackson party pressed on and obtained possession of the house, and drove out their opponents. It appears that in this last attack, one or two of them also had muskets. They took out the furniture, and burnt it near the liberty pole erected in front, and then set fire to the building. An alarm of fire was immediately made; the State House Bell was rung, and the companies hastened to the spot, but were not permitted to

\* One has since died in the Pennsylvania Hospital.

use their apparatus, until the liberty pole was prostrated, which took some time, in consequence of their not having proper tools with which to cut it down. It fell against the house, and broke in the front wall as low down as the second story. That house and four others, all nearly new, adjoining it, which we understand are the property of Mr. Robb, of this city, were materially injured.

The following is from the National Gazette of yesterday.

**THE RIOTS OF LAST NIGHT IN MOYAMENSING.**

*(Communication—From an Eye Witness.)*

About nine o'clock, a number of Jackson men were seen actively employed in distributing clubs and administering strong drink to their adherents: this was shortly followed by an attack from a number of the Jackson men on the Whig Quarters, by throwing stones and shouting on their followers. This was continued but a few minutes, when a number of the Whig party returned the attack with such violence that the Jackson men retreated. After obtaining a reinforcement, they renewed the attack; assailed the Whig quarters, tore off the window shutters, doors, &c. and kindled a fire around the Whig Liberty Pole, with the wreck of the demolished shutters and doors. During the enacting of these scenes of outrage, the threats of vengeance and destruction of the Whigs and their quarters, from the augmented Jackson host, roused the former to the determination of defending their quarters to the last extremity, and for this purpose procured fire arms.—The expected attack was made—the Whigs within the house fired, and wounded, report says, eighteen of the Jackson men. After this, the whole of the party attacked the Whig quarters, drove out the occupants, and set the premises on fire.

**ANOTHER.**

The riot commenced by a number of Jackson men from the First District going up to Moyamensing with banners and lanterns, and parading before the Whig quarters, and finally attempting to cut down the Liberty Pole. The Whigs beat them off, and afterwards returned the attack on the Jackson quarters, which, with the Hickory Pole, they destroyed. In their turn they were again attacked—and it was in this attack that fire arms were used by both parties, and with fatal effect, one man being killed and several wounded. The Jackson men were seen (and they are known) deliberately cutting out the window and door frames, for the purpose of getting fire-wood to burn down the Liberty Pole—in doing which they fired several houses belonging to James Robb, an Anti-Jackson man, who was discharged from the Post Office, when the present Post Master came into office. The firemen promptly repaired to the spot, but were not allowed to play or act, and in attempting to do their duty, several of them were seriously hurt, and their hose cut in several places.

**ANOTHER ACCOUNT.**

The riot commenced by Jackson men making an attack on the Anti-Jackson men, who were distributing tickets, breaking the lanterns they were carrying, as well as those which were fixed around the Whig headquarters. This attack was repelled by the Whigs, and the Jackson men retreated. The Jackson men rallied, and augmented in their number by a reinforcement from Southwark, renewed the attack on the Whig headquarters, assailed the doors and windows, but were prevented from getting into the house by the police officers. During this attack a shot was fired at the quarters of the Whigs.

Disappointed in gaining access to the house, they attempted to cut down the Whig Liberty Pole planted in front. Unable to effect this with axes, the pole be-

ing strapped with iron, they kindled a fire around it, which very soon ascending, communicated to the house: and at this time the besieged Whigs fired on their assailants, who fled, and the Whigs escaped from their quarters. The fire spread to four contiguous buildings, which are consumed. The rioters prevented the firemen from saving the Whig quarters, till the flames had gained such head that all their exertions were useless.

All accounts agree in stating that the Jackson men were the first aggressors, by their attempt to get possession of the Whig head-quarters. The number wounded is not known; reports are various, some stating it to be six, others eighteen or twenty.

**UNITED STATES BANK.**

Below is an abstract of the monthly statement for October. In comparing it with the statement for September, it appears that the loans of the Bank on personal security are near \$200,000 more, and on domestic bills of exchange, \$1,300,000 less, leaving the aggregate of loans more than a million less than on the first of September. The specie in the vaults of the Bank, is increased \$1,700,000; its circulation is increased half a million; and its funds in Europe diminished \$700,000. The Bank has now means in hands sufficient to meet the whole amount of its obligations of every kind. It will be noticed that the discount line of the Branch in our city is very much reduced from what it was last winter. The curtailment of the Bank during the month of September, results from the same cause which for some months past has been producing the same effect, viz: the paying off of domestic bills of exchange, while at the same time the abundance of money in the market has prevented other borrowers from applying for the sums paid in. The Bank, we know, has exercised a most liberal policy in its loans, discounting very long paper, at least in payment for its bills of exchange on Europe. The money, however, is not wanted at present, and the Bank finds it impossible to keep up its loans. In fact, money is now on all hands seeking borrowers.

The following is the general state of the Bank:

Loans on personal security,	\$30,461,199 23
bank stock,	1,073,827 61
other securities,	3,587,813 70
	<hr/>
Domestic Exchange,	35,122,840 54
	10,883,951 21
	<hr/>
	\$46,006,791 75
	<hr/>
Baring, Brothers & Co.	3,050,247 39
Specie,	15,561,364 98
Redemption of Public Debt,	282,333 92
Treasurer of the United States,	351,654 24
Public Officers,	1,406,366 74
Individual Deposites,	6,912,591 71
Circulation,	15,637,676 47
Due from State Banks,	2,127,438 84
Due to State Banks,	2,946,149 04
Notes of State Banks on hand,	1,568,247 00

The state of the principal Branches is as follows:

*Philadelphia.*

Loans on personal security,	3,273,990 36
bank stock,	224,913 00
other securities,	2,327,788 50
	<hr/>
	5,826,691 86
Domestic Bills of Exchange,	1,338,807 59
	<hr/>
	7,165,499 45
Due from other Banks,	647,323 36
Due to other Banks,	1,016,804 61

<i>New York.</i>	
Loans on personal security,	4,630,025 04
bank stock,	76,390 00
other securities,	203,889 81
	<hr/>
	4,710,214 85
Domestic Bills of Exchange,	1,291,497 52
	<hr/>
	6,001,712 37
Due from other Banks,	247,239 72
Due to other Banks,	744,683 40
	<hr/>
<i>Boston.</i>	
Loans on personal security,	1,577,950 90
bank stock,	35,668 30
other securities,	30,107 00
	<hr/>
	1,643,726 20
Domestic Bills of Exchange,	1,471,809 35
	<hr/>
	3,115,535 55
Due from other Banks,	202,431 51
Due to other Banks,	369,089 24
	<hr/>
<i>Baltimore.</i>	
Loans on personal security,	1,605,405 01
bank stock,	117,230 00
other securities,	50,200 00
	<hr/>
	1,772,837 01
Domestic Bills of Exchange,	137,611 55
	<hr/>
	1,910,448 56
Due from other Banks,	108,391 34
Due to other Banks,	263,341 19

#### THE COAL TRADE.

From the 1st of April to the 8th of October the Lehigh Coal and Navigation Company have loaded at this port, 1 ship, nine brigs, 110 schooners, and 30 sloops; Total 150.

From the Company's Depot, at Newark, New Jersey, the shipments have been 41 schooners and 86 sloops, making 127 vessels.

Thus it appears that in a little more than six months, 1 ship, 9 brigs, 151 schooners, and 116 sloops, making 277 vessels, have been loaded with coal and despatched to other ports from the Lehigh mines.

The Company transport their coal from the mines, to Newark, N. J., by the Lehigh and Morris Canals;—the first commencing at Mauch Chunk, and terminating at Easton, on the Delaware; and the latter commencing on the Delaware opposite Easton, and terminating at Newark.

The Company have recently established a depot at Perth Amboy, which is supplied by boats passing down the Lehigh, Delaware and Raritan Canals, and the Raritan river; some boats, we understand, have passed down these canals, entered the New York Bay, and actually delivered their cargoes at the wharves in the city of New York. The depot at Perth Amboy, which is intended for the supply of the Eastern and Northern markets, is accessible for vessels of any burthen, at any season of the year.

We have been informed of a striking fact, which exemplifies the great importance and benefit of the internal improvements of our country:—A few weeks since, an Erie canal boat which had brought a load of coach lumber to Newark, took in a return cargo of coal, destined for the town of Elmira, on the Tioga river, near the Pennsylvania line, in the State of New York.

It is curious to trace the route of this lot of coal on the map. First it starts from the mines and arrives at Mauch Chunk by the rail road; thence it takes the Lehigh canal to Easton; then the Morris canal to Newark;

then through the New York Bay, and up the North river to Albany; then by the Erie canal to Seneca Lake; then through the Seneca Lake to Salubria, at its head; then by the Chenung canal to Elmira, which in a direct line is about 100 miles from the place of starting; having gone about 700 miles to arrive at its destined point.

There are two improvements in contemplation, and we hope to see them both soon carried into effect, that will obviate the necessity of taking the circuitous route to reach the interior of New York. These are, first a rail road from the West Branch Canal at Williamsport up the valley of the Lycoming creek to its source, and thence to Elmira. The route for this road has been surveyed, and is found to be extremely favourable; the whole distance would be but about 100 miles, and it would open a direct passage for the coal of Pennsylvania into New York, and in return, the salt and plaster of New York into Pennsylvania. Salt is now brought in wagons from Elmira to Williamsport. The other contemplated improvement is that of forming a steamboat navigation on the Susquehanna from Wilkesbarre to Owego. The river was surveyed during the months of July and August with the view of ascertaining the practicability of so improving it as to make it navigable for steam boats of light draught. The report of the engineer, Mr. Hopkins, was decidedly favourable, and the Company formed for the purpose have already commenced building a boat at Owego, N. Y. which will be finished in time to commence running with the rise of the river in the spring. This enterprise is due principally, to the energies of the Hon. Samuel D. Ingham, and Col. Butler of Wilkesbarre.—*Commercial Herald.*

#### THE BANK OF GERMANTOWN.

This institution has now existed twenty years, during which time it has enjoyed the uninterrupted approbation of its dealers and stockholders; and its notes have been in the highest repute everywhere, as a circulating medium, and especially so among the German population of Pennsylvania.

It is, perhaps, a singular fact, that in all this period of its term, it has never lost one dollar by any loan to any of its directors. They, indeed, have never been of the class who much needed the funds of any bank for their business.

The regular dividends of the bank, have never been omitted; and they have generally been at seven per cent.—only in a few instances, under peculiar circumstances, (in 1811 and 1812,) have they been as low as five per cent. Often they have been at eight per cent.; and but a year ago, they were at ten per cent.

A circumstance favourable to the character of the bank, may be inferred from the fact, that it commenced operations with a scattered list of stockholders—several of whom residing in the city of Philadelphia; but regularly since, the stock has been gradually concentrating in Germantown and vicinity; and is now almost wholly owned by men out of business—aged persons—women—widows—and wards and orphans.

The stock has long been at about twenty-five per cent. advance, and is remarkable for rarely changing its value.

A bill was brought into the Legislature, and passed the lower house, for the renewal of its charter, at the last session; and at the next session it is expected to become a law.—*Germ. Tel.*

HUNTINGDON, Pa. Oct. 1.

Number of Canal Boats which have passed the port of Huntingdon this season, corrected weekly from the Washington Hotel Register.

Per last report,	1107
Since,	55
Sept. 29, 1834,	1220

CANDIDATES.	N. Mulberry	S. Mulberry	U. Delaware	L. Delaware	North.	High Street	Chesnut.	Middle.	South.	Walnut.	Dock.	Locust.	New Mart.	Cedar.	Pine.	Total.
CONGRESS.																
James M. Linnard	397	250	394	297	288	152	151	225	138	82	152	317	411	272	184	3710
Henry Horn	394	248	393	292	288	150	139	224	136	82	148	315	410	274	178	3671
James Harper	315	416	331	463	539	379	293	332	379	283	398	350	334	342	374	5550
Joseph R. Ingersoll	319	419	354	464	541	381	298	332	382	283	403	353	336	348	376	5589
SENATOR.																
Samuel B. Davis	395	249	387	296	292	154	145	223	142	85	147	327	421	275	180	3712
G. W. Toland	315	417	361	469	529	379	292	328	376	281	396	356	335	344	384	5562
ASSEMBLY.																
J. H. Newbold	400	249	391	295	297	161	145	228	140	85	156	328	425	273	177	3750
William English	400	249	393	297	292	162	146	230	139	84	154	328	427	274	174	3749
John W. Ashmead	400	249	390	292	293	158	145	227	139	85	155	326	422	273	176	3730
Joseph C. Neal	399	249	391	293	295	156	145	226	141	85	153	327	424	273	175	3732
Benj. Rush	399	249	392	293	298	159	144	228	143	85	158	327	424	273	175	3747
William Stewart	399	249	390	293	291	158	144	229	141	84	157	326	424	272	175	3752
Hugh Dickinson	400	249	391	292	294	155	143	226	139	84	153	328	423	272	174	3723
Abraham Miller	323	416	359	462	529	380	299	326	378	282	391	356	327	346	381	5555
George Handy	322	416	358	459	528	376	298	323	376	280	392	356	328	344	381	5537
Henry S. Spackman	321	412	359	460	525	378	298	323	376	280	399	356	327	345	380	5528
J. T. Mather	323	413	359	460	526	377	299	325	378	280	390	356	327	345	380	5540
William B. Reed	322	414	358	459	521	379	296	325	372	277	392	351	328	344	379	5517
Joseph B. Smith	321	410	358	459	510	371	293	320	371	277	386	355	377	343	378	5479
Thomas S. Smith	322	414	357	453	523	379	293	325	369	280	384	353	325	344	376	5497
SELECT COUNCIL.																
John Moss	402	256	390	300	283	162	145	228	148	83	154	333	424	278	182	3768
George W. Tryon	402	255	394	301	284	161	147	228	147	86	153	331	424	279	184	3776
Robert Taylor	401	255	394	300	284	160	146	226	150	85	152	331	424	277	181	3766
Thomas Roney	402	255	393	299	283	159	146	228	149	84	151	330	424	278	181	3762
Morris Longstreth	406	255	394	302	289	160	147	228	149	85	153	332	425	279	180	3784
Dennis McCredy	315	408	352	449	520	372	291	326	362	279	394	349	330	344	369	5460
William H. Keating	317	413	356	457	523	376	293	326	363	282	398	351	334	344	380	5513
Isaac Rouch	317	413	357	456	522	377	295	326	367	281	396	348	334	345	380	5514
John Wiegand	315	410	356	455	522	375	293	323	363	280	396	349	333	345	380	5495
John M. Barclay	314	413	356	454	515	378	293	326	364	282	397	348	333	344	381	5499
COMMON COUNCIL.																
Isaac Wainright	405	254	394	301	297	162	146	230	149	86	157	327	417	277	180	3782
Lewis Taylor	403	254	394	300	297	159	146	231	148	86	156	327	417	277	181	3776
John Bell	402	254	393	301	296	162	146	229	147	86	155	326	417	275	183	3772
William Camm	404	255	393	301	297	161	146	231	146	86	155	326	417	276	183	3777
John Horn	403	254	393	300	299	160	146	228	146	87	155	328	417	277	181	3774
William Geisse	403	254	392	301	296	158	148	229	147	86	156	326	417	276	181	3770
James Fearon	402	254	393	301	297	160	146	229	148	86	156	326	418	274	183	3765
William J. Leiper	403	254	393	298	296	158	146	229	146	84	155	327	417	276	180	3762
Samuel J. Henderson	403	254	393	300	298	158	147	230	149	88	156	326	417	277	181	3777
John M. Hood	403	254	393	300	298	159	145	229	143	86	158	326	418	276	184	3777
John Patterson	403	254	393	301	300	157	145	229	149	86	155	327	418	276	182	3775
John T. Sullivan	402	253	391	297	294	157	143	224	142	86	149	323	414	271	181	3727
V. L. Bradford	403	254	391	299	296	157	144	226	147	85	150	324	416	275	179	3747
Timothy M. Bryant	404	255	394	300	304	160	145	230	148	86	156	326	417	276	182	3783
David Boyd	402	253	392	298	296	157	147	228	149	87	154	326	417	275	180	3761
C. Macalester	403	254	393	299	297	153	145	231	147	86	158	327	417	277	182	3774
James Maloney	403	254	393	299	296	159	145	229	148	85	155	326	417	275	178	3762
R. Hutchinson	403	254	392	301	296	158	145	231	147	85	158	326	417	278	178	3771
Patrick Hays	402	254	392	299	296	158	145	229	147	85	155	327	417	277	183	3766
A. R. Gemeny	402	253	393	299	295	155	145	228	146	85	155	324	417	274	179	3750
Henry Troth	312	413	357	453	534	375	297	328	368	281	396	351	336	343	380	5524
John S. Warner	313	412	357	454	537	378	299	325	369	292	395	352	336	344	379	5531
Thomas Lancaster	313	411	357	455	535	377	296	325	370	281	400	352	334	344	379	5530
John Gilder	313	411	356	454	534	379	298	322	367	281	395	351	336	343	380	5520
Peter Wright	312	411	356	454	534	378	296	326	371	281	397	354	336	344	377	5527
John Darragh	313	410	357	451	531	377	298	327	366	281	401	352	335	345	377	5521
Joseph R. Chandler	312	409	355	450	532	376	296	325	365	278	397	351	337	343	379	5505
Dr. R. M. Huston	313	412	355	448	529	376	294	325	367	278	395	350	337	343	379	5501
James Hutchinson	313	412	357	453	532	377	297	326	368	281	396	351	337	344	377	5521
Benjamin H. Yarnall	313	412	357	452	533	379	297	325	368	281	396	352	337	344	378	5524
Matthew Arrison	312	409	357	453	531	378	296	325	369	280	395	352	337	343	378	5515
Henry I. Williams	313	412	357	453	534	377	297	326	371	280	396	352	337	345	381	5531
Merrill Canby	313	412	356	451	530	376	297	327	369	280	394	352	338	344	378	5517
Frederick Fraley	313	410	357	455	531	376	296	326	368	280	394	350	337	343	381	5517
Dr. J. R. Paul	313	409	357	453	533	377	297	325	369	281	396	350	337	344	379	5520
Thomas Dunlap	313	412	357	452	534	377	297	326	370	281	396	353	337	343	380	5537
James Rowland	313	410	357	453	535	376	296	327	369	281	397	352	337	345	391	5531
Thomas Earp	313	411	357	453	535	376	297	328	369	279	394	353	335	346	377	5523
James Burk	312	409	357	452	533	373	295	328	363	281	396	352	337	343	379	5510
Lemuel Lamb	313	408	357	455	531	377	296	326	366	278	395	349	335	343	376	5504

(City continued on next page.)

## CITY (Continued.)

CANDIDATES.	N. Mulberry.	S. Mulberry.	U. Delaware.	L. Delaware.	North.	High Street.	Chestnut.	Middle.	South.	Walnut.	Dock.	Locust.	New Market.	Cedar.	Pine.	Total.
COUNTY COMMISSIONER																
Daniel Smith	393	252	391	306	295	155	142	226	142	84	152	320	424	274	180	3736
William Wagner	314	412	353	457	527	383	297	322	371	282	396	349	323	347	380	5513
AUDITOR.																
William Vogdes	400	252	393	305	296	159	146	225	146	86	151	327	425	279	183	377 <sup>3</sup>
Jacob Engelman	302	412	353	458	522	377	292	328	367	278	395	353	330	344	377	548 <sup>8</sup>

## PHILADELPHIA COUNTY—OFFICIAL.

CANDIDATES.	N. Liberties.	Unincorporated N. L.	Spring Garden.	Penn Township.	Kensington.	Oxford.	Germantown.	Roxborough.	Bristol.	Bustleton.	Blockley.	Kingsessing.	Moyamensing.	Passyunk.	Southwark.	Total.
SENATOR.																
Jesse R. Borden	2427	217	1241	252	1276	254	389	327	101	345	229	115	475	160	1737	9545
Francis J. Harper	2429	217	1243	253	1276	259	389	327	101	345	229	115	479	161	1755	9578
For 2 years in the place of Samuel Breck, resigned.																
John Thompson, P	2042	106	1110	106	705	246	432	262	142	356	253	61	306	54	765	6947
Thomas Craig	2039	106	1109	106	708	245	433	262	142	354	253	61	304	54	766	6930
For 2 years, in the place of Samuel Breck, resigned.																
ASSEMBLY.																
Lemuel Paynter	2445	217	1231	258	1277	253	394	325	102	346	232	116	484	165	1742	9587
Thomas J. Heston	2444	217	1231	258	1277	253	394	325	102	346	234	116	483	165	1744	9589
Samuel F. Reed,	2446	217	1231	258	1277	253	394	325	102	346	232	116	479	165	1744	9585
Richard Peltz	2343	217	1231	258	1277	253	394	325	102	346	232	118	481	164	1739	9578
W. H. Stokes	2445	217	1231	258	1277	253	402	325	103	346	232	116	484	165	1743	9597
John Rheiner, Jr.	2444	217	1234	258	1276	253	395	325	102	346	232	116	484	165	1749	9582
Thomas Lewellen	2445	217	1231	257	1277	252	394	324	101	346	232	116	483	165	1740	9582
Abm. Helfenstein	2442	217	1231	258	1277	253	394	325	102	346	232	116	483	165	1742	9586
Jos'h. Plankington	2018	106	1115	104	701	249	432	265	143	360	255	60	296	53	757	6914
James Maxwell	2019	106	1114	103	701	249	430	264	143	361	264	60	285	52	756	6897
Robert T. Conrad	2015	106	1116	103	701	249	432	265	143	360	256	60	294	53	757	6908
John H. Gibbon.	2014	106	1116	103	701	249	432	265	143	360	256	60	294	53	756	6908
Wm. D. Conrade	1991	106	1115	702	249	433	265	143	360	256	60	294	53	762	6789	
George Norton	2010	106	1114	103	701	249	432	265	143	360	256	60	292	53	756	6900
William Rose	2017	106	1116	103	701	249	427	263	143	360	255	60	295	53	757	6906
John Rush	2017	106	1115	102	701	249	431	258	143	360	256	60	294	53	757	6902
Wm. T. Conrade	25		103													128

## COUNTY COMMISSIONER.

Daniel Smith	2459	215	1253	254	1287	248	393	337	101	340	232	106	477	164	1759	13361
William Wagner	2031	106	1098	105	694	250	434	262	144	356	254	61	296	54	755	12413
AUDITOR.																
William Vogdes	2465	217	1230	244	1274	249	390	324	100	338	225	117	479	164	1740	13329
J. Engelman	2018	105	1107	115	704	253	432	262	140	356	254	58	296	54	756	12398

## CONGRESS.

## FIRST CONGRESSIONAL DISTRICT.

	Sutherland.	Gowen.	Total.
Southwark	1746	740	2486
Moyamensing	468	310	778
Passyunk	161	54	215
Blockley	227	253	480
Kingsessing	117	59	176
Penn Township	253	100	353
Germantown	385	432	817
Roxborough	324	256	580
Bristol	100	141	241
	3781	2345	6126

## THIRD CONGRESSIONAL DISTRICT.

Northern Liberties.	Ash.	Walmough.	Total
1st Ward	252	256	508
2d do	168	306	474
3d do	366	291	657
4th do	198	364	562

## Northern Liberties.

	Ash.	Walmough.	Total.
5th Ward	459	375	834
6th do	499	236	735
7th do	499	224	723
Spring Garden.			
1st Ward	428	381	809
2d do	335	254	589
3d do	192	149	341
4th do	278	337	615
Kensington.			
1st Ward	252	134	386
2d do	191	135	326
3d do	235	154	389
4th do	281	175	456
5th do	321	111	432
Rosehill	217	106	323
Oxford	253	252	505
Byberry	63	101	164
Lower Dublin	217	240	457
Moreland	53	19	72
	3757	4600	10352

From the Pittsburgh Gazette.

### BEAVER AND SANDY CANAL.

We publish, to-day, the Report of the Engineers employed to survey this route. It seems that these persons have made a favourable response to the call that has been made upon them. We are not informed as to the standing of Messrs. Gill and Hage, nor as to the weight which their opinions may have where they are known. We are glad that they have completed their examination so early, so that the result may be placed before the Legislatures of the different States concerned, and the capitalists, in Philadelphia, in proper season,

We will be gratified to see either route promptly commenced, and vigorously prosecuted; but do not wish to be misunderstood, as to our opinion upon this subject.

We are fully and decidedly convinced, even admitting both routes to be equally practicable, equally well supplied with water, and to be completed at equal expenses, that the Mahoning route would be the most advantageous to Pennsylvania.

Our reasoning is briefly thus. The completion of either route would secure to Pennsylvania the trade of the Ohio country along the canal. Our contention, hereafter, with New York will be for the trade afloat on Lake Erie. The route by the Mahoning is the shorter one to Cleveland and the shorter our way to that point, the greater vantage will we have, in our competition with the empire State, for the business of the far West.—If our communication to the Ohio Canal, by the Mahoning route, is once completed, produce, from places south of Akron, will never pass that place to encounter the dangers and delay of a Lake navigation, in seeking the New York market.

On the other hand, in respect to produce from Lake Erie, it cannot be drawn from New York, unless a direct and short route, from Cleveland to Philadelphia, is presented to its owners.

While we say this much, we will add, the privileges granted to the Sandy and Beaver Company are very great, and well calculated to tempt capitalists who may have confidence in the supply of water on that route.

### SANDY AND BEAVER CANAL.

*To the President and Directors of the Sandy and Beaver Canal Company.*

Gentlemen.—In compliance with instructions received from a committee of your Board, dated September 10th, 1834, we have examined the route of the Sandy and Beaver Canal, with a view to the adequacy of the supply of water for an active navigation, and respectfully

#### REPORT.

The summit of the Canal drains eighty square miles of country, and is fourteen miles in extent, ten miles of which are located over ground exceedingly favorable for the retention of water—being a tough clay, mixed with a small portion of gravel. The top water line of the Canal is depressed to a plane, lower than the surface of the adjoining country; and as the cutting is deep, and the ground gradually rises as it recedes from the line, no allowance can be requisite for losses by leakage. This portion of the route is frequently intercepted by small, but durable streams, and the soil being extremely springy, there is every reason to believe, that it will afford an ample supply for all losses that can possibly be sustained by evaporation. The remaining four miles of this, and three on the adjoining levels, dependent on the summit for their supply, are of a character somewhat different, and will require some allowance for leakage and evaporation.

The summit will receive its natural supply of water from Cold Run, Brush Run, and West Fork of Little Beaver Creek, Sandy Creek, Holland's Creek, Mendenhall's Run and Davis' Branch; in addition to which, the head waters (the East and West Forks) of the Mahoning can be conducted into it at a moderate expense. These streams were frequently and accurately gaged, at their lowest stages, during the last month, and were found at their minimum, to yield in the aggregate 558.49 cubic feet per minute. As this amount is much less than that found by Major Douglass, during his examination in 1828, we are led to infer from it, and our own observations, as well as the information received from the inhabitants, that the past season has been one of unusual drought, and that in ordinary seasons, a much larger supply may with safety be calculated on. The land in the vicinity of this portion of the Canal, and the streams enumerated, is already much improved; and we feel safe in estimating the complement now cleared at fifty per cent, therefore little diminution in the streams is hereafter to be apprehended, from the hand of the settler; and we feel fully justified in assuming that the amount of water now found, will in future prove to be the minimum supply.

Allowing 60 cubic feet per mile per minute, to meet the loss by evaporation and leakage, on the seven miles heretofore described, we have left for the purpose of navigation 138.49 cubic feet per minute, which would amount to 198.425 cubic feet per day. The summit level being located to contain seven feet in depth, we have three feet of surplus water for lockage, which would afford in addition to the above, 100,000 cubic feet per day, for one hundred days, which we assume as the period of the greatest probable drought—making in the whole 298.425 cubic feet per day, during the dry season. If from this amount we deduct 86,400 cubic feet per day, for loss and leakage at the locks, we have left 212,025 cubic feet per day for lockage—being sufficient for the transit of 17.45 boats per day across the summit, allowing that the locks have a lift of six feet, and that three locks full will pass two boats.

This amount being inadequate to accommodate the trade that may be anticipated, it becomes necessary to resort to reservoirs, which during the dry season, will supply the deficiency. Numerous and eligible sites for the purpose, present themselves, the most favorable of which, are on the West Fork of Little Beaver Creek, and Cold Run. The first of these will flood 300 acres, and contain 105,937,920 cubic feet of water, having an average depth of 8.10 feet above the highest plane of the summit level. The other, is intended as an auxiliary to connect with the former, by means of a short feeder—will inundate about 96 acres, and contain 33,711,680 cubic feet of water—having an available average depth of 8.06 cubic feet, amounting in all to 139,649,600 cubic feet. If from this amount, we deduct twelve inches in depth for evaporation, &c. we shall have left for navigation 124,942,744 cubic feet—being sufficient to pass 102.83 boats per day; this added to the 17.45 boats per day in the foregoing statement, gives a supply sufficient to accommodate over 120 boats, per day, during the dry season. The estimated cost of constructing these reservoirs, and the Mahoning feeders, is as follows.

#### *West Fork Reservoir.*

68,000 cubic yards embankmen', at	
20 cents	\$13,600
500 linear feet of	
pipe at	5,40
672 perches wall at	2,00
200 perches wall at	3,00
Sluice gates, &c &c.	1,000
	-----

\$19,244 00

*Cold Run Reservoir.*

12,684 cubic yards feeder excavation at 8 cts	1,014 72
47,000 cubic yards embankment at 16	7,520 00
214 linear feet pipe at 5,40	1,155 60
400 perches wall at 2,00	800 00
200 perches wall at 3,00	600 00
Sluice gates &c.	500 00
Waste weir in feeder	150 00

11,740 32

*Mahoning Feeder to West Fork.*

25,700 cubic yards excavation at 12 cts.	1,774 00
9000 cubic yards embankment at 15	1,350 00
Waste weir	200 00

4,514 00

*Mahoning Feeder to Davis' Branch.*

85,700 cubic yards excavation at 12 cts.	10,284 00
27,000 cubic yards embankment at 14 cts.	4,050 00
Bridge at deep cut	150 00

14,484 00

49,982 32

4,988 23

Add 10 per cent for contingencies

Total estimated cost

\$54,980 55

The streams on which the above described reservoirs are situated, in connection with the East Fork of Mahoning, afforded during our recent examinations at their minimum discharge, 249 cubic feet per minute, and drain about twenty four square miles of country; during 9 months of the year they will yield an average discharge of 1048 cubic feet per minute, independent of freshets. These reservoirs, from the extent of country they will drain, compared with works of similar character elsewhere, will require no other supply to fill them, than the floods of the streams on which they are located; so that we can with safety rely on having for lockage at all times, excepting the one hundred days dry weather, a natural average flow of 1048 cubic feet per minute from the streams last mentioned. In addition to this, the other streams heretofore enumerated, will yield during nine months of the year, an average amount of 1522 cubic feet per minute, making in the aggregate 2570 cubic feet of water per minute—sufficient to accommodate a trade of 295 boats per day.

While on the subject of reservoirs, it may be proper to state, that such a resort for supplying canals with water is by no means experimental. Some of the canals in Europe as well as in our own country, derive a large portion of their water from reservoirs. At the Shaws water works in Scotland, they have been able to lay up in their reservoirs, from the draining of about five and a half square miles of country, 284,678,530 cubic feet being over 70 per cent. of the annual rain that falls on that surface. But we need not extend our researches beyond the works already constructed, in your own vicinity. Upwards of twenty miles of the Licking summit of the Ohio Canal, receives its entire supply from a reservoir, notwithstanding the drought of the past summer, which for many weeks dried up the streams that usually flow into it, the re-

servoir has been found to furnish an ample quantum of water for all the exigencies of the trade.

Although the reservoirs above alluded to are fully adequate to meet the demands of an extensive navigation, it may be remarked that during our explorations, other sites were examined. Two of these were surveyed, one on Mendenhall's branch of Sandy creek, was found would contain thirty-two millions cubic feet of water, and flood eighty acres of land. The other on Davis' branch of the same stream, would inundate two hundred and fifty acres, and have capacity to retain one hundred and nine millions cubic feet; both these can be constructed at a moderate expense.—Hahn's branch of Sandy likewise, offers a very eligible site for a cheap and capacious reservoir, the water of which could be conducted into the summit, by a feeder connecting with that from Davis' branch: On Brush run, several basins might be formed at a small expense, which, during the rains, would collect large quantities of water. The middle fork of Little Beaver, creek was also examined, and found at its lowest stage, to gauge 1,200 cubic feet per minute, at Dale Furnace. Should it be thought expedient to resort to it, 800 cubic feet per minute could be taken from it, without detriment to the eastern division of the line. This amount of course, must be elevated to the summit by steam. The cost of an engine, or engines, of sufficient power, for the purpose, together with the requisite buildings, pipes, feeders, dams, &c., would not exceed \$29,000, and could be kept in full operation for less than \$20 per day.

*The Eastern Division*

of the Canal descends rapidly from the summit level, for about one mile and a half, whence it enters the valley of the middle fork of Little Beaver Creek. This stream affords, at all seasons, an ample supply of water to meet the demands of leakage, evaporation, and lockage, and, as it approaches the Ohio river, the flow is greatly augmented. The valley of the stream offers eligible sites for the construction of dams, and, from its general formation, is well adapted to the purpose of slack water navigation. Should the Canal be extended up the Ohio river, it will be fully adequate to its wants.

*On the Western Division*

of the line, a portion of the levels, near the summit or Middle Division, will require to be fed from the upper level. Loss by leakage and evaporation, on this portion, has been accounted for in our foregoing calculations.

The valley of Sandy Creek, through which this division is located, is peculiarly favourable for the construction of a Canal. From the numerous streams that intersect the Creek in its meanderings, there can be no doubt as to the abundance of the supply of water for this Division.

The country through which the whole line passes, offers, in general, facilities for the construction of the work in question, that are not usually met with. Timber and stone, of a superior quality, are found in abundance. Hydraulic lime is frequently met with, and we have no hesitation in saying, that the improvement can be constructed at a moderate cost, compared with works of a similar extent.

All which is respectfully submitted.

E. H. GILL,  
HOTHER HAGE, } *Engineers.*

New Lisbon, O., Oct. 13, 1834.

THE PAOLI PARADE.—The annual parade on the 20th ult. in commemoration of those brave men who were massacred near Paoli during the Revolutionary War, was of a truly imposing and interesting character. The military made an elegant display—being

handsomely equipped, and evinced by the manner in which they performed various evolutions, evidence of good discipline, which was highly creditable to the companies and their officers. Besides the corps belonging to the Battalion, there were several from Montgomery and Philadelphia counties, and also from the city. The whole were under the command of Col. Yogum, and were reviewed by Gen. Goodwin, of the city of Philadelphia.

**THE SEASON.**—This has been a year remarkable for the lowness of the waters in many of the principal rivers, and for the dryness of the atmosphere which has destroyed the farmer's crops of corn, and burnt up the green grass of the pasture fields. The Harrisburgh Chronicle says that the Susquehanna has been three inches lower than it was ever known to be, as ascertained by a mark made in 1803—the time of greatest drought. The Ohio at Cincinnati, has also fallen within a few inches of its greatest remembered depression. The canal extending from this place to Middletown—a distance of eighteen miles—has not been navigable for several weeks from this cause.—*Columbia Spy*, Oct. 11.

#### THE BARTRAM BOTANICAL GARDEN.

Dahlias which were in flower, Oct. 14th, 1834, at the Bartram Botanical Garden:

Imported varieties,	196
Named American seedlings, double, (all of which have been exhibited at the Horticultural society,)	22
Double seedlings, of the growth of 1834, worthy of cultivation, <i>un-named</i> ,	52
	270

With a number of *double* and *semi double*, not included.

From Bicknell's Reporter.

#### CONSECRATION.

The Church of Epiphany, located at the N. West corner of Chestnut and Schuylkill Eighth streets, was consecrated in a solemn and appropriate manner on Saturday, Oct. 11th. This is a beautiful edifice, and being the only church in Chestnut street, and with one exception, the only one in Philadelphia, west of Broad street, promises to succeed beyond the most sanguine expectations of the enterprising gentlemen who were instrumental in building it. Its location immediately opposite Colonade Row, and in a section of our city that is rapidly improving, will materially tend to success. The pastor too, the Rev. Mr. Tyng, is one of the most eminent and popular of the Protestant Episcopal clergymen of our city. We are glad to learn that the congregation is already large, and it will, no doubt, rapidly increase.

#### RAIL ROAD TO PORT DEPOSIT.

A meeting of citizens of Chester county was held in East Malborough township, on the 18th instant, for the purpose of considering the propriety of adopting measures for constructing a rail road from West Chester to Port Deposit. After some consultation on the subject, it was resolved, "that James Kelton, Joseph Sharp, Joseph J. Lewis, Caleb Swayne, William Everhart, Dr. Wilmer Worthington, Abraham Hoopes, and Joel Swayne, be a committee to prepare and procure to be presented to the legislature of this state, during their approaching session, a petition for a law incorporating a company to make a rail road from the borough of West Chester, by the nearest and best practicable route to the Maryland line, in a direction to Port Deposit, and also to correspond with such citizens of the state of Maryland as they may judge eligible for the purpose

of procuring their co-operation in the continuation of the road from the said Maryland line to Port Deposit."

#### PROCEEDINGS OF COUNCILS.

Thursday, Oct. 16th, 1834.

The new Councils of the city of Philadelphia met in their respective chambers, over the Mayor's office, yesterday morning. In the Select Council, William M. Meredith, Esq. was re-elected President, and Jos. G. Clarkson, Clerk. In the Common Council, Henry Troth, Esq. was chosen President, and Robt. Hare, jr. Clerk. Both Councils elected William Daugherty, Messenger, and Lydia R. Bailey, printer.

In the Common Council, Messrs. Gilder, Wright and Burke, were appointed members of the building committee of the Girard College, and Messrs. Troth, Chandler, Earp, and Dunlap, members of the Board of Commissioners of the Girard estates.

In the Select Council an ordinance was passed appropriating the sum of \$4000 to meet the expenses of the Girard estates for 1834, in the adoption of which, the Common Council concurred.

Both Councils concurred in the selection of Tuesday next, as the day for the election of Mayor of the city.

#### ELECTION OF MAYOR.

At a joint meeting of the City Councils, held yesterday morning, (Tuesday, Oct. 21,) in the Chamber of the Common Council,

JOHN SWIFT, Esq.

was unanimously re-elected Mayor of the city for the term of one year.

A committee, consisting of Messrs. Lewis and Lippincott, of the Select, and Messrs. Wright and Fraley, of the Common Council, was appointed to notify Mr. Swift of his election. Mr. Swift being introduced, in the course of a few minutes, took the customary oath of office, and returned thanks for the honor of his appointment, in a neat, pertinent and impressive speech.

An item of business from the Select Council, relative to the appointment of a Gas committee, was, in Common Council, on motion of Dr. Huston, referred to the standing committee on lighting and watching.

#### GIRARD ESTATE.

The Commissioners of the Girard Estate met yesterday, (Oct. 21,) at their room, in Chestnut street, and organized for the ensuing year, by electing the following officers:

*President,*

JOSHUA LIPPINCOTT.

*Secretary,*

MORGAN ASH.

*Agent on Farms,*

GEORGE BASTIAN.

The President appointed the following committees:

*On Real Estate,*

TROTH, EARP, DUNLAP.

*Finances,*

EYRE, LEWIS, MEREDITH.

*Farms and Lots,*

CHANDLER, SWIFT, LIPPINCOTT.

**COUNTY OFFICERS.**—Thomas D. Grover, Esq. has been elected President, and John Oakford, Clerk of the Board of Commissioners of Southwark, for the ensuing year. Joseph Johns, Esq. has been elected President of the Board of Commissioners of Spring Garden.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 18. PHILADELPHIA, NOVEMBER 1, 1834. NO. 356.

The following document has been forwarded to us with a request to publish it.

## LYCEUM SEMINARIES.

We invite the attention of our readers to the article below, especially the proposal for *Simultaneous Conventions*. We hope that the friends of education generally throughout the states will assemble at their respective county towns, on the first Wednesday of November next, to adopt some organized, and efficient measures for the promotion of schools and the diffusion of knowledge. By taking the *first step*, viz. organizing a **COUNTY LYCEUM**, any other which is desirable will be found practicable and easy. The qualification of teachers may be raised and their schools improved, improved books and modes of teaching introduced, apparatus for *visible illustrations* procured, village and neighborhood Lyceums established, circuit teachers employed, museums and *itinerant libraries* formed, **LYCEUM SEMINARIES** established or promoted, correspondence and exchanges with schools and Lyceums in other parts of the country instituted, and any other objects or measures, advanced, which may seem desirable for the cause of education and of humanity.

We are happy to learn that measures are adopted to have forwarded to each county town in the Union, such pamphlets, periodicals and papers, as will fully explain the plan, operations and advantages of the Lyceum system, especially of a *Central Lyceum Seminary*, about being established, and furnish other aid for rendering the proposed conventions instructive and successful.—*Maryland Temperance Herald*.

From Niles' Weekly Register.

*Self-education and self-support* is, in all the departments and all the operations of the Lyceum System, its most prominent feature. It acknowledges the benevolence, the overflowing goodness of our Creator, in furnishing all his rational creatures with the faculties, and in surrounding them with the materials, or means, of growing and rising in physical, intellectual and moral strength. The great object of Lyceums is to call into exercise those faculties, and into use those materials, so abundantly furnished by the wisdom and goodness of the great Creator, and the constant and abounding Benefactor.

There is, however, one department of the general and national institution of Lyceums in which the principle of self-support is more fully and more prominently recognized than in any of the rest. The general plan of Lyceums has ever contemplated, within every county or other moderate district, a *manual labor and self-supporting school*, which should furnish to its pupils advantages equal to those in our colleges for general literature and science, and much superior for a practical business education to those of any institution in our country. While these schools are designed to afford to farmers, mechanics, and all the industrious classes of the community, the best opportunities for a practical, useful education, they are also intended to be, in the strictest and best sense of the word, seminaries for teachers—for teachers of schools and Lyceums. They are intended to furnish the means for teachers to sup-

port and educate themselves, and at the same time to construct their own apparatus and various instruments of instruction, while they are learning the modes of using them, and acquiring the knowledge they are designed to illustrate. Lyceum seminaries are intended to unite manufactories of apparatus for illustrating various departments of science, and the qualification of teachers to use the instruments for diffusing the science among all classes of the community, and in every section of our country.

Experience, on this subject, has already proved, that young men, and even lads, after a short time, and probably young ladies and misses, can pay by their own industry, all their expenses of board, clothes, books, tuition, &c., and at the same time acquire a more thorough, useful education, than it is possible for any college or other institution, without manual labor to give them. Such being the testimony of experience, the conclusion follows, that any plain farmer's son, or poor mechanic's daughter, can have the means of acquiring a *better education* than the money of the rich can purchase for their children.

In all the departments, and in all the operations of the Lyceum system, there is harmonious action and reciprocal and united effort. So, between the Lyceum seminaries in all parts of the country, there is intended to be a virtual, though, perhaps, not a formal connection. In many of their operations, especially in the manufactory of apparatus, they may render each other very important aid; and, by their united efforts, furnish not only colleges, academies and high schools, but Lyceums, common schools and families, with more abundant, cheaper and better instruments of instruction, *tools of knowledge* than can possibly be furnished from any other source.

The whole plan of Lyceum seminaries will embrace, then, a central institution, which shall combine a seminary for teachers and a manufactory of apparatus, for a part, and a prominent part of its manual, productive exercises. This institution will, as far and as fast as its means will permit, furnish facilities to any other manual labor schools, by supplying them with prints, tools, experience, &c. as aids to their intellectual productive exercises. With such aid, any manual labor school, now in operation, might engage in the manufactory of globes, mechanical powers, geometrical solids, and most of the instruments for the *practical sciences*, if not for the more abstract and abstruse subjects.

These statements, Mr. Editor, are not from theory or conjecture; they are from experience for a course of years; having conducted an agricultural school for ten years in which the pupils paid all their expenses by their own industry; and having also had much apparatus made under my direction, and, in a great measure, by the strength and skill of lads and misses from fourteen to eighteen years of age.

The question will naturally arise, by what means can these seminaries, whose prominent feature is self education and self support, be established through our country, in such numbers, and under such circumstances, as to hold out proposals, and afford opportunities, for the children of every class, without distinction, to *secure to themselves* the rich blessing of a sound physical, intellectual and moral education.

To this natural and important question the answer may be, perhaps, by COUNTY LYCEUMS. It is evident that the whole community, and all sections of our country, can more conveniently act, and co-operate with each other, through the medium of county societies, than by any other divisions or districts known throughout the states. As counties through the union will, probably, not average more than forty miles in diameter, very few would have to travel more than twenty miles, and a large majority less than ten miles, to attend county conventions, or the quarterly meetings of county Lyceums. Considering the importance, and if properly conducted, the instructive and interesting character of education conventions, which county Lyceums might easily furnish at their quarterly meetings, a general attendance of teachers, school committees, parents, children, and the lovers of knowledge and the friends of education generally, might reasonably be expected. — And by their attendance, a warm and generous sympathy, an organized and vigorous system of measures and efforts, might be sustained, for the great and all important cause in which every man, woman and child, is equally interested.

Under such views and feelings, I have witnessed with no little satisfaction, proposals for *simultaneous action* in this cause. The proposal has been made, and responded to from several sources, for county education conventions, in all the states and all the counties in the union, on the first Wednesday of November next, for the purpose of organizing county Lyceums, as a preparatory step for accomplishing any other objects, which might be found practicable. Among the objects which county Lyceums might, at an early period, take up to advantage, would be seminaries for self-education and self-support. In connection with these, and perhaps in many instances preceding them, *circuit schools*, for the purpose of weekly, semi-weekly, or even semi-monthly courses of instruction, where more frequent courses could not be sustained, might be taken under consideration and *carried into effect*, by county societies. Indeed, the advantages of associations for systematic and concentrated effort, in the diffusion of knowledge, are so great and so evident, and the results of county Lyceums in particular, have been so uniformly and so strikingly happy, that the proposal for such measures only needs to be made to be seconded, and to secure the general sanction of enlightened individuals and communities.

On the subject of simultaneous action through the medium of county conventions and county Lyceums, it is gratifying to be able to state that numerous facilities may be procured to render the meetings, not only useful, but instructive and entertaining. Thomas S. Grimke, of Charleston, S. C. as a committee, appointed by the literary and philosophical society of that state, has recently prepared an address to the citizens of South Carolina, to be published soon, giving an exposition of the Lyceum system in its various departments and operations, from national and state societies, down to *family Lyceums*, and from exercises for mutual and self-instruction in the dead languages and the most abstruse sciences down to penmanship, reading and orthography. This address, which is as applicable to the citizens of other states as those of South Carolina, can easily be procured, and portions or the whole of it read, as one of the exercises of the proposed conventions.

Numerous other pamphlets have been published on the subject, some of which contain the forms of constitutions, among other things to facilitate the operations and the objects of the meetings.

All the materials and means for commencing *county museums* or cabinets of nature and art, are at hand in great abundance. In the numerous cabinets already collected, both by individuals and by institutions, are

duplicates which the owners will gladly appropriate to such an object, whenever an opportunity is offered.

In the gold regions at the south are several county Lyceums, whose prominent object is to collect and exchange specimens. From this source, a museum in each of the eleven hundred counties in the state, may be supplied immediately with specimens of gold ore.

In every county a museum might be commenced, at the first meeting, by specimens carried by those who should attend it. The specimens thus collected, if not known by those who presented them, might be named and described by some other persons present, as in nearly every county are a few individuals who have some knowledge of natural history.

Among the most encouraging and gratifying circumstances, as an aid in promoting the objects of county Lyceums, is a resolution, recently passed by the board of managers of the Baltimore Union Lyceum, which is as follows:

Resolved, That this board esteem the organization of county Lyceums throughout the Union, as an important step for the advancement of American education: that we will prepare, as soon as practicable, specimens of minerals, plants, penmanship, map drawing and needlework, for any county lyceum which may apply for the same, and that we invite the school and other juvenile Lyceums connected with our society, to render their assistance in accomplishing the object of the resolution.

As great as this resolution may at first appear, it can be accomplished with great ease by bringing in the aid of the juvenile members of the society, by which several thousand specimens are already collected for that object; and if similar measures should be adopted in all our principal cities, as they have already been in several, a system of exchange in the works of nature, and of art might be easily and readily instituted, which would give, not only to every county Lyceum, but to every village and neighborhood, lyceum and school, and even to every family, an instructive and valuable cabinet of natural history, or a museum of natural and artificial productions and curiosities.

The above statements, facts, views, plans and suggestions, are very respectfully submitted for the consideration of such of the friends of education and general improvement, as may have an opportunity and a disposition to examine them, by their friend,

JOSIAH HOLBROOK.

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## THE CROSS CUT CANAL.

We publish, to-day, an article from the *Courier and Enquirer*, of New York, in relation to the Lake trade, which will be found interesting to every person who has at heart the prosperity of our internal improvements.

By this article it appears that *eight thousand barrels* of salt were, last year, sent to Chicago alone; and it is supposed that *sixteen thousand barrels* would be sent the present season.

We know not whether the salt manufacturers, on the Conemaugh, could, even after the completion of the Cross Cut Canal, compete with those of Onondaga, in the Chicago market, and would be glad to receive information on this subject from those who are well informed. But there can be no doubt that a very large portion of the produce of the immense and rapidly improving country along the Lake would find its way to the sea board, by this route, if the connecting work between the Ohio and Pennsylvania Canals was finished.

There is, probably, no section of our country which is improving more rapidly than that along our great Lakes. We have the means of making the best outlet to a market for the products of this growing country, and we will be shamefully negligent of our own interests, and of our commonwealth's welfare, if we do not make the best use of the advantages which nature has afforded us.

Our position in relation to that immense region is such that, to secure the entire trade of its growing population, we need only will it. The inaccessibility of the east end of Lake Erie for so long a portion of the year affords an advantage to our route which is insuperable and of eternal duration. We trust the attention of the Legislature will be called to this matter at an early period of the ensuing session.—*Pitts. Gaz.*

From the N. Y. Courier and Enquirer.

#### LAKE ONTARIO MARINE INTELLIGENCE.

OSWEGO, Sept. 24th, 1834.

Arrived at this port, within a few days past, the schooners Detroit, Huron, and Winnebago, belonging to Messrs. Bronson & Crocker, from the ports of Chicago in Illinois, Michigan City in Indiana, and St. Josephs in Michigan, on Lake Michigan, where these schooners discharged about 2,400 barrels of Onondaga Salt, returning to Lake Erie in ballast, where they took on board cargoes of Ohio wheat, for the Oswego mills, destined (when floured) for the New York market.—These, although not the first voyages between our own and the Western States, are almost the commencement of a regular trade between these distant points, a trade destined to grow up in a brief period to a vast amount.

The future extent of this trade is not easily conceived by those who are not familiar with the topography of the lake countries, or are unable to estimate the facilities of ship navigation. To such, it may be useful to say, that our western lakes afford ship navigation to a larger and better country than those which border the Baltic or the Euxine, a large portion of which is already prepared by the fire of the hunter for the plough of the farmer—a country destined to exchange its pork, peltries, wheat, lard, &c. for the salt, merchandise, and manufactures of the east, to an amount which will astonish both parties.

Eight thousand barrels of Onondaga salt were taken to Chicago last year at an average price of three dollars per barrel. Sixteen thousand barrels is the estimated supply for the present season, at \$2 50 per barrel, and when return cargoes of what can be produced in place of Spanish dollars which we are now compelled to bring back, the wheat may be freighted to Oswego for one shilling per bushel, reducing the freight of salt from one dollar (its present price) to fifty cents per barrel of five bushels. Salt will then be delivered to the teamster in Illinois and Indiana at two dollars per barrel, and then the demand will be double again the first year, say 32,000 barrels for Chicago alone.

Not only will New England be supplied with bread from the upper lake countries, but old England too, in large quantities, provided she would adopt the judicious policy which her best statesmen are urging, and which, it is believed, necessity will soon compel them to do, viz: to take their bread from us at a reasonable duty.

Under these circumstances, we challenge the most sanguine to estimate, if they can, the extent of the trade which will flow from the West through our channels, provided a liberal policy shall render them sufficiently capacious.

From the American Spectator.

#### INTERNAL IMPROVEMENT OF PENNSYLVANIA.

There is great want of information throughout the State with respect to these great channels of trade—

our Rail Road and Canals, which form so prominent a feature in the domestic policy of Pennsylvania. Few, except those who have made it their duty, are aware of the important bearing which these improvements exert upon the prosperity of the state; and, with the design of bringing before the public eye a few of the advantages which may be derived from them, thereby adding my mite to the general stock, and consequently bringing the people to a proper appreciation of these sources of revenue, I have favored you with a few facts in relation thereto, loosely strung together, but nevertheless facts. It may not occur to the minds of some of your readers, that this is the first year which has presented an uninterrupted chain of rail road and canal communication from Philadelphia to Pittsburg.

Heretofore although a brisk business had been done on the Canals, the difficulty of transportation across the Allegheny in consequence of the non completion of the Portage Rail Way, gave the New York Canal an advantage over ours, which, from the location, nature had denied it. As soon, however, as this part of the line of improvement was finished, and the vexatious delays and difficulties consequent upon so novel a mode of transportation, were surmounted, the superiority of this route over all others, decidedly manifested itself, and the extensive increase of carrying facilities made by the several forwarding companies were found to be quite insufficient to meet the immense accumulation of freights. To show you what fair prospects may be indulged of successfully competing with the Erie Canal, I might mention that *one-fifth* at least of all freight sent westward on the Pennsylvania Canal during the past summer, were *New York goods*. The price of transportation was then but one dollar per hundred, from Philadelphia to Pittsburg, but is of course higher since the commencement of the Fall business, which so far has proven altogether beyond expectation.

Another matter of some importance is the great increase of *down freight*; this year one company alone brought down no less than 900 hhds. Western Tobacco; the quantities likewise of rags, wood, feathers, and especially of bacon have been astonishing. An important, and I am pleased to add, successful experiment was made in the early part of the season by a Tennessee planter, who sent about thirty tons of Cotton to the seaboard, through our Canal and found, that taking into consideration the *insurance* risk, and price of carriage, borne in the usual way of sending his staple coastwise, he gave inland transportation, and especially the Pennsylvania Canal his most decided preference.

When these facts get to be known, we may fairly calculate that notwithstanding the enormous quantities of freight now carried westward, the balance of trade will be *from* instead of in that direction. Every Pennsylvanian who has the weal of the state at heart, cannot but feel gratified at the prospects which are dawning upon it, and proudly to contemplate the high stand which she is about to take among her sisters, and the glorious and successful rivalry which she is but just commencing to share with her northern neighbor, in the splendid trade of the West.

J. B. M.

HARRISBURG, Sept. 25, 1834.

**BEARS.**—Three bears were killed, we understand, during the present week, in the Mahantango neighborhood. These animals are apparently on the increase in this county, judging from the number of them killed. We should suppose the hunting of them to those who are fond of this amusement, would prove successful sport. They have become so tame as to make their appearance in towns and fields. *Miners' Journal.*

# HEAT OF THE ATMOSPHERE BY THERMO-METER IN PHILADELPHIA ALMSHOUSE.

1834.	Sun rise.	9 A. M.	Meridian or noon.	3 P. M.	Winds and Weather.
April 1	43	47	52	52	ENE with rain
2	57	62	54	66	S to NW, cloudy
3	42	44	50	56	WNW, clear
4	39	44	51	51½	NE, cloudy
5	35	40½	45	50	NE, hazy
6	38	44	49	46	NE, rain
7	44	47	52	54½	NE, rain
8	49	56	59	63	NE, rain
9	54	56	61	63	NE, damp
10	45	46½	47	47	NE, damp
11	37	41	55	60	ENE, clear
12	41	52	63	65	Dead calm and clear
13	44	58	69	71	S SW and clear
14	54	65	71	74	NE and clear
15	52	63	72	76	SW and clear
16	56	65	74	78	SW and clear
17	55	65	78	83	S SW and clear
18	45	50½	55	62	NE and hazy
19	45	49	52	55	NE, with rain
20	49	58½	67	70	NW and clear
21	55	64	70	74	Easterly and hazy
22	61	65	69½	57	SE to NE and cloudy
23	51	52	53	55	NE to NW and cloudy
24	48	51	56	60	NW and clear
25	42	41	39	40	NE, with rain
26	35	48	55	53	SW to SE and cloudy
27	31	40	45	48	WNW, heavy gale
28	37	50	59	63	WNW and cloudy
29	49	50	59	62	NW to NE and clear
30	44	51	57	61	N NW and clear

From the Germantown Telegraph.

## RAIL ROAD CELEBRATION.

The opening of the Norristown branch of the Philadelphia, Germantown and Norristown Rail road, as far as Manayunk, was celebrated on Saturday last, (18th inst.) in quite a *spirited and happy* manner—a plan of procedure, by the bye, which we care about recommending to the opening of *every* road—if it be only a cart-way to a potato patch—so—that it is not forgotten to make us one of the few.

Agreeably to notice, at twelve o'clock, precisely, four of the Company's handsome cars filled with about one hundred and thirty persons—President, Managers, Engineers, and other officers of the Company, with the invited guests—each drawn by two fine horses—started from the depot, corner of Ninth and Green streets, and proceeded at a rapid rate toward the point of destination.

The greater proportion of the new road, is constructed somewhat differently from our own road;—the sills upon which the rails are laid, consisting, in the main, of wood instead of stone; but these wooden structures again essentially vary from each other in different sections of the road—for the purpose, probably, of experimenting, in order that time may decide, which, from their strength and durability, are the best adapted to rail road purposes.

The branch—if it may be so called—to Manayunk, is, perhaps, one of the handsomest roads in the country, and is apparently substantially constructed. It may be, to judge from a rapid conveyance over it, upwards of four miles in length—more than two miles of which is uninterrupted by the slightest curve, and forms a beautifully undulating view of alternate embankment and excavation—the whole passing through a delightful

section of country; and the moiety next to Manayunk, is especially picturesque and romantic.

The cars at length approached that magnificent structure over the Wissahiccon at Robeson's mill—and as each one reached the centre, the company gave three hearty cheers for the success of the enterprise. The construction of this viaduct in the firm and substantial manner in which it appears to be built, is certainly an extraordinary undertaking, and has been accomplished in a manner which has given entire satisfaction to the Rail road Company.—In order that our readers may form an idea of the appearance of the cars, from the adjacent turnpike road, passing over this bridge, we will state, that its height from the surface of the water, is *seventy feet*, to which we may add about twelve feet more, as the height of those who may choose a seat on the top of the car. The length of this immense structure, is *four hundred and seventy three feet*, and the cost of construction we understand to be thirty thousand dollars.

After half an hour's examination of the viaduct, the cars proceeded to Manayunk, where accommodations had been prepared at Snyder's Hotel, and where the company partook of an excellent collation.—The numerous and happy sentiments that followed the removal of the cloth, and which elicited many eloquent and appropriate addresses from a number of gentlemen, were of a character at once gratifying and pleasing; and we only regret that our limits will not allow us a brief sketch of some of them.

The toast of the President of the Rail road Company, Mr. Nevins, of this place, which was prefaced by an appropriate address, was happily responded to by Messrs. Henry Troth, and W. D. Lewis—in which both speakers took occasion to say—one of whom being a manager, and both deeply interested in the Navigation Company—that the managers of the Schuylkill Navigation Company viewed the progress of this Rail road, instead of with a jealous eye and a feeling of rivalry, they viewed it with feelings of gratification as well as satisfaction—believing that the completion of the road to Norristown, and even to Reading and the very Coal Regions themselves, which a few years are likely to see accomplished, it would not abstract an iota from the interests and profits of the Navigation Company—they being fully convinced that such would be the extent of the trade poured out by the vast regions and resources of the interior and the west, that it would require *both* channels of conveyance to be unremittently occupied in affording it a vent; and they doubted not, but that the time was not far distant, when, to disembody the immense resources which the genius of science and the hand of industry, were now about developing in this state, would be a giant task for *both* corporations.

Responsive to a complimentary sentiment to Philadelphia, Mr. Thomas Biddle rose, and in returning thanks, gratified the company with an address replete with eloquence and a knowledge of the internal improvements of the state, the Union, and the world at large, that afforded a rich treat both as a subject of instruction, as well as a development of the advantages of the system. The applause that followed the speaker's remarks, showed how heartily the assembly joined him in sentiment. Mr. Biddle had occasion, in one or two other instances, to address the company, and the spirited and animated strain, in which he portrayed the great interests of this country, as divided among and bearing upon the different classes of society, was received in the happiest manner. He satisfactorily proved that the interest of the capitalist was equally the interest of all those employed by him, and *vice versa*; and so long as they went hand in hand in consummating these rapid strides toward that pinnacle of prosperity and improvement, to which this great state was evidently destined to arrive, so long would her resources continue to be developed, and her energies expand, until she would

Ph. A. M. Biddle

not only become what is already allowed her, out of respect, the "Key-stone of the Arch," but that she would, in fact, be entitled not only to that honorable appellation, but be looked up to as one vast University for the dissemination of a knowledge in the most important of all sciences—the *Economy of Life*.—Mr. B. concluded by passing a handsome eulogy on the first great projector of internal improvements—the illustrious Washington—and especially on him who followed in his footsteps, and had the energy to undertake, and the ability to execute the commencement of this grand system—the lamented Clinton.

A toast complimentary to Norristown, was pertinently replied to by Col. Jolly, and Mr. McCreedy, of that place, who entered into an interesting detail of the resources of that borough and surrounding country—evidencing at once the great benefits which must be realized to that section of country, on the completion of an undertaking which all awaited with anxiety.

In reply to a similar compliment to Germantown, Major Chew returned thanks in his happiest manner—taking occasion, among other things, to remark, that though Germantown might be considered somewhat disappointed in failing to become a point in this great rail road thoroughfare, which needs must have been to that place of corresponding advantages with others; yet, it must be acknowledged on all hands, that that which tends to the good of the whole, must necessarily cast its influences on all the parts. He, therefore, doubted not but that the citizens of Germantown were satisfied under the belief that all was done that could be done.

Handsome compliments were paid to the Engineers, Messrs. Strickland, and Campbell; to Mr. John Young, Carpenter, and contractor of the great viaduct; to Mr. Otis, the Road Contractor; to Mr. Wright, Secretary and Treasurer of the Company; and to others, for the satisfactory and gratifying manner, in which they had severally discharged their duties:—To all which, thanks were respectively returned in brief but appropriate addresses.

Remarks were also made by Mr. Rundel, and Col. McKinney, and others not now recollect: the remarks of the Colonel, were so happily interspersed with his *jeu d'esprits* and *jeu de mots*, as more than once to throw his auditors into an old fashioned, invigorating "roar."—The Colonel was, consequently, a "rouser;" and his neighbor Lewis was not so far behind him as to be beyond hearing.

After truly enjoying the "feast of reason and the flow of soul," until about half past four o'clock, the company returned in *excellent spirits* to the city—under the full and *sincere* conviction, that "Rail road Openings," after all, were clever affairs—and the only regret that we heard expressed, was, that they didn't happen every week. We, of course, sympathized with them.

From an advertisement, it will be perceived that the cars have commenced their regular trips to Manayunk.

From Poulson's American Daily Advertiser.

## THE DANVILLE AND POTTSVILLE RAIL ROAD.

The commencement of business on this rail road was witnessed and celebrated by a large company of respectable gentlemen on the 24th of September. The preceding day had been appointed, but the morning rains, with the distance from Pottsville of more than 20 miles, going and returning, caused one day's delay, much to the regret of the officiating engineer, and of the persons attending, who felt for the disappointment of a number of absent friends, who had been on the ground on the 23d.

To those absent, who have recently bestowed but little attention on the progress of this bold and successful work, but are aware of its importance to the heart

of Pennsylvania, the south side of New York, and especially to the city of Philadelphia, information in detail, of this opening of the eastern division may be acceptable.

The portion of the road now perfectly opened, and announced for commercial transportation, embraces about a third of the whole work; not in length, but in expense and labor; and surmounts all the great obstacles, which raised doubts and fears in the minds of some in the earlier stages of the enterprise. Commencing at the western end of the Mount Carbon rail road, which unites it with the Schuylkill navigation, it reaches the summit of the Broad Mountain by easy gradations, and by four self acting planes, and through a tunnel of sound and beautiful workmanship, exactly 800 feet in length.

The tunnel is a model of neatness and elegance.—It was excavated from both ends, but not a line or joint is perceptible at the meeting of the work. The interior is dry and clean, with every appearance of permanence and solidity. Both the eastern and western fronts are faced with handsome hewn stone:—yet the cost, if recollection serves, was only about \$22,000— a little within the estimate of Mr. Robinson, the chief engineer, who has certainly demonstrated upon the whole of this work, as well as upon others, that he understands the exact sciences.

The passages of the planes upwards or downward, for passengers, or for coal, is at the rate of from four to six miles an hour, without hazard, and with very little delay or expense.—From the summit of the mountain the road descends westwardly, by the Mahanoy plane to the Mahanoy creek, intersecting the Girard Estate, and, in 100 perches from the plane, reaches the new town of Montgomery, and the Coal Tunnel, a little eastward of Girardville; thus connecting the commerce and waters of the Susquehanna, of which the Mahanoy is a tributary stream, with those of the Schuylkill, in a distance from Girardville of about 12 miles. The route of this division of the road is traced through the wildest wilderness, a waste of untrodden and rocky mountain, heretofore the undisputed inheritance of the rattle snake, the bear, the wolf and the panther. Here, nature seems to have designed a defiance to art but these barriers now remain the graven monuments of the irresistible march of improvement, and of the triumph of professional science and mind over matter. The time was when faith could remove mountains; if the age of miracles is past, the age of intellect is begun. The last 100 years, said Dr. Priestly, has advanced more in useful knowledge than was done in all preceding time. Yet Priestly did not see what we have seen—but he foresaw the working of wonders.

The Western division of the road, extending by a continuous descent, from the Shamokin coal field to the basin of the Pennsylvania canal at Sunbury, twenty miles, is rapidly advancing to completion, under the active and vigilant directions of the engineers and 700 men. Nearly half the work of gradations is already done, though commenced but two months since; before the middle of March, there is reason to believe, that the road formation will be completed, and in nine or ten months afterward, coal may be loaded into the canal boats at Sunbury, rendering this division also productive in toll to the stockholders, while it will supply tonnage to the state canal. In a little time the middle section of the road will, without doubt, be completed; and then the immense trade and produce of the Susquehanna valleys, reaching far into fertile portions of New York, and comprehending a population of a million of inhabitants, will be attracted by this near and direct route to the city of Philadelphia.

Premising these general observations, the proceedings of the 24th ult. now claim a more particular attention. About 11 o'clock, in a delightful day, the party on horseback and in carriages, by various ways, found themselves together at the engine house at the

top of the Broad mountain, where the stationary engine and the power, ease and docility of its mighty movements, direct and reverse, its instant obedience to the finger of man, "like a thing insinuated with life," raised universal admiration. Far from "grating harsh thunder," like Milton's gates of Erebus, its finely polished joints and tubes and wheels, as one of the visitors remarked, hardly hummed as loud as a farmer's spinning wheel. No jarring nor creaking, nor clattering; yet its tremendous power reminded one of the Yankee's exclamation, "Here's all hell in harness!"

This excellent engine is of 90 horse power; it was purchased and erected at a cost of some thousands of dollars less than others in the state of interior power; and for this, as for more important services, the company are indebted to the scientific skill, zeal and economy of their engineers. It is operated by anthracite coal from the adjacent Girard lands, which is found to answer perfectly well. The design of this fixed engine, the only one upon the rail road is to elevate the coal cars, and the carriages for passengers, from the Mahanoy valley, by the inclined plane, to the summit of the mountain, and return others below by the same movement. This plane, 1650 feet long, overcomes an elevation of 345 feet; and at the foot, where the traction is greatest, begins with a gentle inclination. As well as the shorter planes, it is formed in the most substantial and permanent manner, and indeed the whole work appeared to the party to be of this character.

A short time was agreeably spent in the valley by those who descended into the cars, viewing the improvements, among which, the Coal tunnel, on the Girard lands, is important. It was commenced by the rail road company, under a lease from the city of Philadelphia, above twelve months since, with the immediate view of reaching the coal mines in the Bear ridge, and, ultimately, of forming a communication between the Mahanoy and Shenandoah valleys. Its length when finished, will be 2500 feet. It is regarded as one of great consequence to the Girard Estates, for thus, their most extensive coal fields are brought about four miles nearer to the city market, at an expense but little exceeding the cost of a branch road to these fine mines. The company have had recourse to this lease and mining, more from necessity, it is understood, than from the desire of exercising their mining privileges, as the death of Mr Girard frustrated for a time, their expectation of tolls from the transportation of his lumber and coal, and delayed the completion of the road to the Susquehanna.

The party again ascended the plane, attended by loaded coal cars, all wound up to the summit with wonderful ease and safety, by the steam giant Mahanoy, and proceeded eastward to the next planes by horse power, on a gentle graduation, and thence to the Mount Carbondale rail road, six miles from the Mahanoy planes. The descent in this distance is 700 feet, which is judiciously distributed, at nearly equal distances, in four inclined planes, of from 500 to 800 feet in length. As the greater trade, will be toward the Schuylkill in the transportation of coal, the stages of the road, between the planes, are graduated at such an inclination as to render the traction eastward and westward equal.

The same skillful arrangement is preserved in these planes on the eastward slope of the mountain, which are all on the self acting principle. The excess of gravity of the descending train of cars, is the power employed to elevate the ascending train. When the whole road from the Schuylkill to the Susquehanna shall have been completed, it is in contemplation to use the gravity of water on these planes, in cars constructed for that purpose, by which means the necessary preponderance of the descending train may be adjusted to the exigencies of every case. For the present, ordinary ballast cars answer the purpose. The supply of water on the top of the mountain, for that

purpose, as well as the Mahanoy engine, is abundant and convenient.

All who witnessed the operations of the day have returned home, there is no doubt, with an increased conviction of the importance, and the complete success of this great communication from Philadelphia to the centre of Pennsylvania. The steamboats of Owego and Wilkesbarre, now on the stocks,—the iron and bituminous coal of the West branch of the Susquehanna,—the farms and forests of both, and the travelling from all quarters, will minister in a short time, to the prosperity of this "Central Rail road,"—which seems destined to form a link in a great chain of road from Philadelphia by the Schuylkill and West branch to Lake Erie, and to the state of New York, not only by water, but also by the Lycoming and Tioga rail road. Whatever may be attempted short of impossibility, will be accomplished in the best manner, so long as the responsibility rests upon the eminent talent, sound judgment and untiring perseverance of the engineer, who has thus far conducted the work.

VIATOR.

## AN ADDRESS BEFORE THE LAW ACADEMY.

An Address delivered before The Law Academy of Philadelphia, at the opening of the session of 1833-4.

By CHARLES INGERSOLL, one of the Vice Provosts of the Academy.

Gentlemen of the Academy:

Another vacation past, you are again assembled to the labours of the law; to urge your way to the term of your apprenticeship, that nearest object of your hope, where striking from the obscure paths of barren novitiate, the fields of your destined career are opened to the view; the Pisgah of your earlier toil, whence you may look down, and refresh your eyes with the promised land of professional reward. You return to your studies, eager, I am sure, to reach this starting post of the race of honour, and strong, I trust, in all the good resolution, which the hope of attaining their final purpose is entitled to inspire. Embellished as they are by the exercises of the Academy, you come back to them as to a "labour of love," commanding your affections rather than your duty; not performed as a task, but pursued as a pleasure. Your pains, you would think, not unrequited, had they none but their immediate recompense, and though they were not, as they are, a preliminary to your future success, and a preparation for those difficult endeavours by which legal eminence, like all things worth possessing, must be achieved. Ministers of present enjoyment, and the means of excellence hereafter, they are indebted to the Academy for all their attractive graces, and for much of their actual value. While it encourages and aids your application to books, it teaches practically their uses, and forms you for the habits of your profession. It is the best introduction to public speaking, that most conspicuous of the lawyer's duties. It disciplines, while it informs the mind; and impresses what it teaches, with more force and greater distinctness than any course of reading, however comprehensive the plan, and assiduous its prosecution. It begets in the student, what the most attentive perusal of the sages of the law seldom gives birth to, a taste for the profession, filling him with that ardent devotion to it, which the native charms of his law books can rarely inspire, and which, when it does spring up without such culture as you apply, is more commonly the result of ambitious regard, than of any sensibility to its attractions. No liberal profession, in its common routine of preparatory studies, wears a less alluring aspect to the probationer than the law. The wonders of religion—the mysteries of medicine—the manly accomplishments of the art of war, win their way to the student's love, and exciting his admiration, or piquing his curiosity, remove

the obstacles that beset his uncertain steps, and lead him gradually onward, unconscious of the perplexities of his path. No such advantages cheer the apprentice of the law. There is little to gladden his progress, or to beguile his toil. He sees only the impediments that surround him, hiding the fair prospect beyond, and presenting none but the sternest objects. No assuring smile alights the formal countenance of Littleton or of Coke. They wear for him the most forbidding aspect. Grim with judicial gravity, they tender their severe ungarished pages, without one greeting to welcome to their uncouth domain, the generous youth warm from the sunshine of the Muses and the Classics, and the hospitable influence of the Iral, but kindly deities of Rome. Lost in the feudal halls and vast intricacies of the law, he may sigh for the grove of Academus, and the immortal glories of the Pantheon.

For you there is no such chilling entertainment.—The rigours of your apprenticeship are forgotten, its speculative saueness coloured and diversified by the exercises of the Academy. The monotony of the closet is varied with a rehearsal of the ardent encounters of the Bar. Rescued from the charges of dullness, that unpardonable sin, the study of the law becomes animated as its practice. The contests of your little Forum urge indifference to exertion, and cheer ambition to its speed; early aspirations are gratified; the hopes of more mature distinction awakened and encouraged. Fondness for your profession, that substitute for talent, and without which it is difficult to excel, with all the aid that unwilling genius can afford, here is created and nursed into enthusiasm.

Make the utmost of the opportunities extended to you, and consider your Academic duties, the habits they form, and the character and qualities which they tend to regulate and develope, as of the last moment to your professional success. You may lament that your studies are not more largely influenced by such auspices, that you have not the advantage of a regular school of law—an institution which should carry out into the fulness of which it is capable, the plan of instruction of which the Academy is an imperfect sketch.—Why should the formation of youth for the profession of the law—one whose importance is surely not undervalued, which chiefly supplies the republic with statesmen and legislators, and fills the high office of vindicating the rights of the citizen, and upholding the laws of the land—be limited to the perusal of a few elementary law books? When all other sciences, and the meanest trades are systematically taught, why should the apprentice of the law be denied due instruction?—How meagre a preliminary is a course of reading to a calling so practical, consisting so much in action, so diversified in its character, so absolute in its various requisitions! How inadequate, for example, the preparation for a profession—whose most important department is public speaking—which is begun, continued and ended, without any manner of reference to that essential particular.

This confined path of study is less adapted to modern purposes than it was to those of our fathers who laid it out, and in whose footsteps we humbly pursue it.—Since the track was made, our profession has enlarged its sphere, and a course of study which may have assorted with the profession as it used to be, is now inappropriate. The lawyers who succeeded in the days just gone, and those who succeed in our own, owe their fortune to more liberal and less technical means, than those which raised to eminence the men of earlier date. The creed which held that a lawyer must be only a deliver in law, has ceased to be orthodox, and middle ground is assumed between the doctrine of Cicero, that he must be of universal genius and accomplishment, and that which would unfurnish his mind with all things else, to store it with statutes and authorities. A deep and comprehensive knowledge of law books, though indispensably necessary, is not the only

requisite to excel, or the whole endowment for success. Alone they cannot accomplish him; at least for our meridian, where he aspires rather to the dignity of the Advocate, than to the office of the Attorney, though we have thought proper to assume to ourselves in Pennsylvania, the latter somewhat insignificant appellate; selecting from the various charges of our multitudinous vocation, the name of that which is the least popular and the most unimportant. Success here is in the gift of the many; and its highest places are not to be won by mere technical proficiency, however great, or without that general and more liberalised merit which all can appreciate. This excursive temper is natural to our condition. The spirit which carries the cosler beyond his last, is the genuine offspring of his right of suffrage; a disposition that awaits upon unrestricted freedom of intercourse, and the easy diffusion of all information—from the ephemeral trash of the hour, to the secret of State, importunately wrung from the Government; upon universal education and unstinted equality, which, approximating all men, and levelling them to the same form, bring them into frequent and familiar contact with each other. The legal bigotry which prompted the rebuke, said to have been bestowed, by an English judge upon the young barrister, who transformed his plea of *tout temps priet* from its original barbarism of Anglo-Norman accent, into the more intelligible graces of modern French, bidding him "*pronounce like a lawyer*," is no longer extant; or, if it do survive, is dwindling from its once palmy state, into poor unnoticed peculiarity. The greatest law name in modern annals, has been gained by an author, the characteristic merit of whose work is its want of technical exclusiveness. The judicial efforts of Sir William Blackstone, on which he expended his strength, and exhausted the midnight oil, are unheard of beyond the limits of the profession, and there have procured him but the moderate renown of a sound lawyer, while his Commentaries have immortalized his fame, by happy adaptation to popular taste and universal use—by exhibiting the law to public wonder, divested of the pompous deformities of mask and buskin, by transmuting into current coin, and making an object of use and admiration to all, that, whose value, till then, was known only to the alchemist. The philosophic tastes of Bacon were urged, and long prevailed, as reasons for denying him legal preferment. But the law, though thus capable of uningenuous contraction, needs not to be a narrow science. It is originally and essentially liberal; having the largest reference to the affairs, sympathies, and common interests of men. No calling is so universal, in its proper character, or is so much wronged, when pared into technicality, which is no less a fault in the lawyer, than in the legislator himself. A certain degree of it belongs to every art—but as a necessary imperfection, not an ornament.

It was formerly the reproach of the English bar, that their scope was too limited for the grander theatres of action, that the nature of their employment contracted the mind and unfitted them for more enlarged fields, that the sharpened perceptions and bar eloquence of the lawyer, did not consist with the views of the statesman, and the nobler oratory of the Senate. The numerous instances in which reputations of eminent lawyers had been tarnished, by failures in the legislative halls, seemed to justify the censure. But of late years, there has been no room for it. The most rising public man in England is a lawyer, whose first steps towards the great eminence he has attained, were made at the bar; and it may be asserted, without more liability to contradiction than in any case, were men's merits are proposed and compared, and the most distinguishing speaker, at this time, in either House of Parliament, is of the profession of the law. That American lawyers lead the nation, we have but to look to the arena of politics—to the floor of Congress—to the list of our Presidents and great officers of State—or to any general

occasion, or display, to be fully convinced. From their professional position, they have easy access to most of the stages on which men love to figure. May it ever be their boast, that their names are known beyond the precincts of the bar! Thus shall its tone be elevated, the pleasures of its practice enhanced, and the law kept pure, by exposure to a broad, wholesome atmosphere.

We have already dispensed, through the medium, sometimes, of silent disuse, or by force of circumstances and situation and often through legislative interference, with those portions of English law, which, in that country, make the market, and the occasion for that sheer technical merit, which consists in capacity to thread the intricacies of mere formula, or to grope the utter darkness of a family settlement. Our fields afford no such harvest. Our laws, like our other relations of life, are less complicated than those of our forefathers of England. They are free from those infinite entanglements, through which no eye can see, but one accustomed to look upon nothing else. Law, with us, is a less difficult science. It is liberal in its character, and open to all; without those fathomless abysses, in which the poor are drowned in expense and mystery, and where only the rich and friendless may venture. Its waters, for so many centuries pent between their jealous shores, in sullen, unprofitable depth, we have spread, like the sacred Nile, in just luxuriance through the land—blessing, with equal bounty, the little field of the tenant, and the wide domain of the proprietor. It may be thought that we have injudiciously lopped the English law, but however the expediency of the changes may be questioned, that they have been actually effected, is past doubt. Those long descended relics, which the curious eye of the antiquarian so admired, have been discarded, or dropped and forgotten; much of the dust of ages has been swept away; knots of subtlest perplexity have been rudely cut, by the unrelenting knife of legislative enactment; the veil of mystery, which once hung in thick folds before the temple of Justice, has been irreverently torn aside, and while the Goddess yet remains blind, her votaries are permitted to see. It will be for after times to decide whether we are foolishly dismantling an old fastness, or, in the wise spirit of improvement, removing its ruined and useless parts. It may be questioned whether ours is the age of improvement, but it cannot be doubted that it is the age of alteration, and the majestic pile of the law is not more sacred from the hammer of the workman, than the humbler and less ancient tenements which surround it.

All the States of the Union have been, to a greater or a less extent, our companions in this progress of Reform. In some of them, the axe has been laid to the root; in others, a sparing hand has trimmed only the redundant branches. It is not many years since the field of French jurisprudence was ploughed and planted anew by the great reformer, Napoleon; and such were the happy auspices of the enterprise, that, while his successors have been engaged in mutilating the monuments of his genius—in vain attempting to efface the marks, which might remind the people that he had reigned—his Code survives untouched, and more fortunate than its projector, has earned the lasting sanction of legitimacy itself. In England, where, as Blackstone has complained, the laws “are unknown by all, but one practical profession,” the lawyers themselves have asked a reform of their system; though it might be conjectured that they would be the last to invade its Gothic chambers with modern architecture. Once, they seemed to reverence its minutest details; to be blind to its most obvious imperfections; to love its merest appurtenances. Coke has assured us that *Pleading* is so called, “*quia omnibus placet*,” and the more enlightened commentator on the Laws of England was able to persuade himself, that they were eminently watchful of the rights of the weaker sex. Now,

the highest legal functionary of the realm, the Chancellor himself, leads the way, in demanding a thorough reform of their whole plan and administration—their form and substance—mass and details; to repeal provisions, which have stood since the days of the Harries and the Edwards, to abolish customs, to the contrary whereof, run not the memories of successive ages of man. His arm is raised to destroy the temple he was ordained to minister in. Well might his venerable and still surviving predecessor weep over the destructive march of modern innovation! Our sympathies go with the Reformer—more especially in his attempt at a beginning of political regeneration. We own no communion with those maxims of politics, which, eternally anchored, advance not with time, and do not move with the revolutions of the world. Let the experiment be fairly made, of governing men in a way which their sense of right approves; and let us be no longer satisfied by the argument of convenience. The old political theories have now had a trial, which began with the earliest records of history, and have only served to heap abuse upon abuse, while, as the successive piles have crumbled, or been torn to the ground, their absurdities have been studiously gathered for new accumulation. Another system is entitled to its turn of experiment; and the present age seems determined to begin it. Let us not despair of success, until like the former, it counts its centuries of failures.

We may hope, that, in the greater improvements which are in progress, your interests may not be forgotten, and that this Institution may continue to rise in the scale of usefulness and merit, until the education of the lawyer shall be broad and liberal as his profession, and Philadelphia not less famous for her Academy of Law than for her school of Medicine.

Till then, press forward with the advantages you have; which, though not such as we may indulge the expectation they will one day be, are yet sufficient to make the Academy a most important, and, certainly, a delightful addition to your means of legal instruction. The rest must depend upon yourselves. Your own endeavors, only, can command ultimate success.—Effort, steady, patient and untiring, will enrich the most ungrateful, and improve the richest soil. If it do not originally create genius, it multiplies, infinitely, its value—digs it from hidden depths, where its existence was unthought of—wears the mind into talent, as it modifies the formation of the body. It is, itself, Good Fortune, which, though superstitiously worshipped into a God, is, commonly, but an attribute of the man—a sleepless vigilance, that suffers none of those opportunities to escape, which, in the revolving of the wheel, are offered to all in turn, but are beyond the reach of the inactive before they can put forth a hand to grasp them. The degrees of labor which success at the bar costs men, are as various as their capacities; but the same gradual, painful progression is common to all—the dulldest and the most brilliant. The case has never happened at even ordinary reputation reached by the common professional highways, unless by severe toil.—They are steep and rugged, and teem with adventures, who soon thrust aside, or trample down all but the energetic. Those, indeed, who have gained a certain standing, find it possible, for a while, to retain it with graceful ease; but, when they cease to exert themselves, they must extinguish their ambition; they must be content to make their place of rest the period of their hopes; to submit to the mortification of enduring equals, that were inferiors, and to see their former competitors mount above their heads. The fate of Sisyphus awaits them at last; and their duties—no longer lightened by ambitious expectation—become a burden, whose intolerable weight rolls them to the bottom. Men sometimes attain sudden elevation by some happy expedient, or hidden path, which leads at once to fortune, without costing them that toil of anxious labor, which is exacted of all that travel the common turnpikes of life. But

legal success has never been thus achieved. These new-discovered routes, have led to some unexpected eminence whose approaches had been untried, because its existence was not known. The high places of the law are none of these. They are open to the view.— Their accesses are notorious to all, for they have been explored, again and again, by successive pioneers, from Bracton to Marshall, by the bright and heavenly genius of Bacon; by Coke, with his unheun masses of learning; by the bold, forensic spirit of Erskine; by the polished force and classical perfection of Pinkney; and none found to be practicable but the great, frequented tract. If all their curious inquiry could detect no by-way of the law, you may decline the search, in salutary despair. Come, then, to the conclusion, at last inevitable, that there is no road but the high road, and that there it is impossible to journey, whatever may be your advantages, without encountering the same obstacles, and undergoing almost the same fatigues as the rest of the throng in which you move.

You come to the bar with more than an ordinary stock of acquirement, and unusual capacity to excel — It is filled with persons among whom the business of the community has been already parcelled out. Even the crumbs which they reject, a crowd of aspirants stand before you to gather and consume. They occupy the whole ground. Their roots and branches have struck into and overshadowed it. Where are you to plant yourselves, and how are your tender shoots to live in such an absorbing neighborhood? Until practised into actual usefulness the most remarkable genius would be unequal to contend with the skill and habit of business to be gained in even a small experience at the bar.— What a mass of strength, what a concentration of passion, oppose your progress! Every inch of ground occupied and contested—the whole region instinct with emulation! How is your unformed strength to avail against the struggling multitude which surrounds the gate of professional fortune? I would answer you in the words of the Roman Augur, when the king asked if, with his knife, he could sever the whetstone: *cut boldly, make the effort*. A reply worthy of the masters of the world; dictated by that spirit of confident endeavor on which their eagles soared to universal empire; that indomitable temper which worked its way to a thousand triumphs, and would not despair of the Republic, when Rome was shrunk into the capitol, and the sword of the barbarian Brennus weighed more than all the riches of the Commonwealth. Admitted to the bar, you join this eager swarm, taking your place among the farthest off, at its extreme verge, and thence press onward, until the movement of those who are before you, your own energy, or others' weakness, shall conduct you, step by step, from one niche to another, in sure, but always laborious gradation. No advance will be too unimportant to be essayed; no pains too great to effect it. The hope would be vain of making good your way but in the slowest progress. There is not such inequality among men, as to render it possible to succeed by any but the humble process that all are content to adopt, and happy to advance by.

Think not such toil harsh, or inconsistent with enjoyment. The "fiery soul" in "working out its way," is the means of happiness as well as of eminence, and is a blessing, which, if Heaven have not vouchsafed you, you may owe to yourselves by giving all your energies to some earnest pursuit. Ambitious labor is the choicest pleasure—animating existence, and filling the mind with the fulness of enjoyment. It begets excitement, that universal pabulum of the mind, which all alike, the statesman and the student, the professional man, the merchant, the mechanic—idle, industrious, humble and exalted—all, in their endlessly varied ways, covet and pursue. Which one man seeks in the seclusion of a closet, another in the turmoil of the world, the wretch in crime, the good man in religion; for which the miser starves, the hero dies, the gambler

lives, and the son of Ammon wept immortal tears. It crowds the year with epochs, and gives the world its zest; while the want of it leaves life a dull routine, that knows no era but a beginning and an end. That life is most worth living which is marked by the greatest number of events. He who, like the venerable head\* of your Academy, with early patriotism arms in the cause of freedom, and when the battles of his country are won, and the camp has ceased to be exciting, sheathes his sword, only to commence a new career of distinction, and, having attained the highest honors of the bar, retires from its contentious fields, not to careless ease and the well-earned shade of his double laurels, but to the sheltered walks of learning and philosophy, there still to pursue his course of ever-active ambition, wisely uses the gifts of Heaven, and leads a life happy for himself, and useful and honorable to mankind.

Stirring the mind with excitement, is the only means of counteracting that inborn sluggishness, which is so large a part of the composition of us all; and which so often mars men's fortunes, and withholds them from preferment. We are all prone to inaction. The "genial current of the soul" is less often frozen by "chill penury," than dammed into stagnant monotony by its own base inclinations. There is a native indolence, a disposition to doubt and to procrastinate, to shun trouble and shrink from responsibility, which, like the original tendency to evil, seems to curse and characterize our nature; debasing the standard of mind, as the sin inherited from our fathers taints and makes forfeit our immortal souls. It is to mind what gravitation is to the material world—a silent, unseen influence, which contains men in their narrow spheres. Our every-day wants and desires urge us to combat this dull impediment; but it is only the planted determination of strong ambition that can shake off its leaden dominion, and teach us to rise to the level of our capacities. It is the noble conviction, that "'tis in ourselves that we are thus, or thus," which plucks the inactive principles from the bosom. The means of men's happiness, are placed by Providence in their own keeping; and they should be used with grateful enthusiasm.

Among the roads that lead to it, you have, I think, well chosen that of the Bar. The perpetual exertion which it calls for, will make you forget its labours in their unintermitted excitement. Its difficult places are many, but the reward that awaits you is proportionably great. Its way is not strewn with flowers, but it is perfumed with the more grateful odour of public fame.

In its paths may the students of the Academy be ever conspicuous! For their professional zeal, for their legal acquirement, for all the qualifications of the advocate and the accomplishments of the gentleman. And may you especially, my friends, whose return to its welcome toils I now salute, from the footing that you here establish, mount high in fortune, and one day enjoy in mature reality, the applauses which you now imagine.

BEARS.—A more than half grown Bear took a stroll into our borough, entering by way of Callowhill street, and crossing the Mount Carbon rail road on Thursday last, with a view, it may be supposed, of welcoming the arrival of a brother in the place confined in a Menagerie. Becoming however, somewhat alarmed at the prospect of things as he progressed, he wheeled round suddenly and commenced a retreat, but was immediately pursued and overtaken, and after a struggle, was captured and secured. A dog made an attack upon him but receiving a warm embrace, was glad to make his escape with unbroken bones. The captors of the

\* Mr. Duponceau.

Bear succeeded in getting his head and foreparts into a barrel, and in this situation contrived to secure the animal, (not, however, without a scratch or two,) an achievement quite creditable to their prowess.—*Pottsville Journal*.

### RAIL ROADS AND CANALS.

The following interesting sketch of our Canals and Rail Roads, is from the Boston Atlas. We have not had an opportunity of comparing whether the distances and levels, &c. are correct, but presume them to be so. The hint given to our friends at Pittsburg in relation to the stage of water, is a good one—and it has more than once occurred to us to ask some friend at Pittsburg for a table, shewing, for a series of years, the different periods and their duration, when the river has been unnavigable, either from lowness of water, or from ice. Cannot the editor of the Gazette, who has taken so lively an interest in the western trade, undertake to furnish such a table?

### THE RAIL ROADS AND CANALS OF PENNSYLVANIA.

Letter from a gentleman of Massachusetts, travelling West.

OHIO AND KENTUCKY HOTEL, }  
Pittsburg, October 13, 1834. }

Dear Sir—We reached this city yesterday, and had a most interesting and pleasant journey, from Philadelphia, by rail roads and canals,—a route but little known as yet, in New England, although so important to all persons emigrating to the west, and as a general line of intercommunication, between the Atlantic and the great Valley of the Mississippi.

We left Philadelphia on the morning of the 6th, in a rail road car, and reached Columbia, on the Susquehanna at dusk—distance 82 miles. The car was drawn by horses, but on the 9th, as I was informed the second tract was to have been completed when a locomotive steam engine was to be substituted, and the distance would be run over in between six and seven hours.

This rail road has been constructed by the state of Pennsylvania. The rails are laid on blocks of stone, and the whole of the work has been well executed. There are two inclined planes to overcome a height of nearly two hundred feet, at each terminus—the first to ascend from the vale of the Schuylkill, and the other to descend into that of the Susquehanna, at Columbia.

The Pennsylvania canal commences at Middletown, ten miles below Harrisburg, and extends up the valley of the Susquehanna to the junction of its Western and Northern branches, and from thence up the former to Bald Eagle, and up the latter to Northumberland; but there is still another, and the most important branch, which passes through the valley of the Juniata to Hollidaysburg, on the eastern base of the Allegheny mountains, where it is connected with the western section, which extends down the valleys of the Conemaugh, Kiskiminetas and Allegheny rivers to Pittsburg.

We took passage in a canal boat at Harrisburg, as the water was too low for navigation, in a portion of the canal, near Columbia. The boats are commodiously fitted up, and the "living" is very good. On the way up we passed Greensburg, Newport, Millerstown, Mifflin, Lewistown, Waynesburg, Newton, Hamilton, Jackstown, Alexandria, Williamsburg and Frankstown.—There are fifty-two locks, and several aqueducts between Harrisburg and Hollidaysburg. The scenery was constantly varying from the beautiful to the picturesque

or sublime, as the canal winds between chains of mountains whose bases, for most of the distance form the bank of the canal on one side and that of the Juniata river on the other, but there are occasional intervals, or bottoms, sufficiently extensive for one or more farms. The mountains are wooded to their very summits, but almost exclusively with oak, walnut, hickory, chestnut, beech, maple, and other deciduous trees, as there was scarcely an evergreen to be seen, save now and then an isolated hemlock or pine on some lofty cliff. The upper regions of the Juniata are prolific in iron and bituminous coal, but Centre county affords the most abundant mines of ore.

The Allegheny mountains are passed by a rail road, thirty-six miles in length, in which there are ten inclined planes, a tunnel and a stupendous viaduct. At the upper end of each inclined plane is a stationary steam engine, by which the cars are drawn up and let down.

The following admeasurement of lengths and perpendicular heights of the inclined planes and intermediate levels, on which horses are used to draw the cars, were furnished by an assistant engineer, whom I met on the summit level. They commence on the west side of the mountain.

Level from Johnstown to Inclined plain No. 1, four miles and two-thirds.

Inclined plain No. 1, is 1600 feet long and 150 high.

Level from Inclined plain No. 1 to No. 2, thirteen miles and a half.

Inclined plain No. 2, is 1755 feet long and 134 in height.

Level from Inclined plain No. 2 to No. 3, one mile and a half.

Inclined plain No. 3, is 1585 feet long and 130 in height.

Level from Inclined plain No. 3 to No. 4, two miles.

Inclined plain No. 4, is 2138 feet long and 187 in height.

Level from Inclined plain No. 4 to No. 5, three miles.

Inclined plain No. 5, is 2620½ feet long and 201½ in height.

Level from Inclined plain No. 5 to No. 6, one mile and a half.

Inclined plain No. 6, is 2700 feet long and 266½ in height.

Level from Inclined plain No. 6 to No. 7, is eight hundred feet.

Inclined plain No. 7, is 2642 feet long and 260½ in height.

Level from Inclined plain No. 7 to No. 8, one mile and a quarter.

Inclined plain No. 8, is 3100 feet long and 307½ in height.

Level from Inclined plain No. 8 to No. 9, one mile and a quarter.

Inclined plain No. 9, is 2714 feet long and 187½ in height.

Level from Inclined plain No. 9 to No. 10, one mile and three-quarters.

Inclined plain No. 10, is 2288 feet long and 180½ in height.

Level from Inclined plain No. 10, to the basin in Hollidaysburg four miles.

The whole ascent on the west side of the mountain, from Johnstown to the summit level, is 1173 feet, and on the eastern side, from Hollidaysburg, 1400 feet.—The top of the mountain, which is some two hundred feet higher than the culminating point of the rail road is 2700 feet above the Delaware river at Philadelphia.

The tunnel commences at the top of Inclined plain No. 1, and extends nine hundred feet through a mountain, about two hundred feet below its summit. The excavation was made by blasting through solid rock,

and consequently only required to be lined at each end, with arches, for about from 75 to 100 feet. The entrances are embellished by entablatures supported by Tuscan pilasters. They are of dressed sand stone.

The viaduct is supported by massive abutments, and a gigantic arch, of eighty feet span and seventy feet in height. This vast structure is formed of hammered stone, and constitutes a magnificent feature in the imposing scenery, which is exposed to the admiration of the traveller, as he passes the mountain.

A double track has been completed over the inclined plains, and the second, for the intermediate distance, is in such progress that it will be finished by the first of April next. All the rails are laid on blocks of stone, and in the new track are cross ties of the same material, for each pair of rails.

The estimated cost of this rail road, including an additional stationary steam engine, at each of the inclined plains, is \$1,470,000.

The cars are now from nine to ten hours in crossing the mountains, but when the second track is completed, so as to prevent delays by the meeting of lumber cars, and a locomotive engine is used, instead of horses, on the long level over thirteen miles between plains Nos. 1 and 2, the transit will be made in about five hours.

The whole of this stupendous labor was projected and has been prosecuted by Silvester Welsh, an engineer who has immortalized his name by a work not surpassed in grandeur and importance by any other in the world. He has most triumphantly surmounted the mighty barrier of the Allegheny, which appeared to present an insuperable difficulty in opening a facile line of communication between the Great West and the Ocean. He has thus raised a monument to the intelligence, enterprise and public spirit of Pennsylvania, more honorable than the temples and pyramids of Egypt, or the triumphant arches and columns of Rome.

They were erected to commemorate the names of tyrants, or the battles of victorious chieftains, while these magnificent works are intended to subserve the interests of agriculture, manufactures and commerce—to encourage the arts of peace, to advance the prosperity and happiness of the whole people of the United States—to strengthen the bonds of Union—induce a more universal and ardent patriotism—give stability to our political institutions,—excite a veneration for the Constitution, and extend the glory of this vast Republic, throughout all nations and all time.

And what a cheering example has Mr. Welsh presented to the virtuous and enterprising young men of this country, in his own commendable career. But fifteen years since he commenced his profession as an Ax-man, to clear the line of survey, for the routes of canals and rail roads, and from that humble station he passed the grades of Chain-man, Target-bearer and Assistant, to that of Chief-Engineer, and now holds that highly important and very responsible situation with honor to himself and to the state, which has confided to his charge, the construction of this grand highway over the American Simplon.

At Johnstown we again took passage in a Canal boat for Pittsburg. From the first named place to the junction of the Conemaugh and Kiskiminetas rivers, is forty-seven miles, from thence to the Allegheny ten miles, and from thence to Pittsburg forty six miles.

The mountains through which the Conemaugh winds its devious course, are filled with mines of iron, coal and salt. The springs of the latter are reached by boring, from seven to eight hundred feet; which is a labor of from twelve to eighteen months. This was formerly done by manual labor, but a steam engine is now used, as one is required to pump the water, and it is the first work erected in the establishment of salt works, which are numerous on both banks of the river, and located on the very margin.

The salt is made by evaporating the water in large wrought iron pans; and the coal which is used as fuel

is obtained within fifty or one hundred yards, as veins of excellent bituminous coal, from three to five feet thick, extend through the mountains, in horizontal strata, on each side of the river, at a height of from forty to one hundred and fifty feet above the water.—

To obtain the coal, a gallery or tunnel is formed, as an entrance, the sides and top of which, for a few feet, are secured by timber. As the coal is removed, columns of it are left, which are five or six feet in diameter, and from ten to fifteen feet apart, to support the roof, as the strata of stone is called, which covers that of the coal. The spaces left between the columns, the miners designate as "coal rooms." The coal is transported in small handcarts to the mouth of the gallery, whose height is equal to that of the thickness of the strata of coal, and from five to eight feet wide; from thence it is sent down the side of the mountain, directly into the salt works, in little rude cars, which run upon a cheap wooden rail way. It costs to the consumer but two cents per bushel, or 72 cents per chaldron. In quality it is superior to the Orrel or New Castle coal imported into Boston.

The iron is formed into pigs and blooms at the mines or near them, and in those forms sent to Pittsburg, and there the former are used for casting, and the latter are drawn out into bars, or other rough forms of wrought iron.

On this Western section of the Pennsylvania Canal, there are three very expensive Works—viz: a tunnel and two aqueducts; the latter are superb structures, supported by several arches, and the whole formed of hammered stone laid in Roman cement.

The Tunnel passes through a mountain about a hundred feet below its summit. It is over a thousand feet in length, and was blasted through rock the whole distance; but as the formation was carious, for two thirds of the extent, it became necessary to line that part of the tunnel, with an arch of dressed stone. At each end the entrances are ornamented by entablatures and pilasters, neatly wrought from a light colored sandstone, which constitutes nearly the whole of the rock formation of the Allegheny mountains. On the eastern side of the mountain, the tunnel is entered from a guard lock, and the boat passes out on the western into one of the magnificent aqueducts above alluded to; then following the course of the canal, down the right bank of the river, the spectator on deck, by turning his eyes to the rear, has presented, a beautiful view of the aqueduct, and the Western entrance of the tunnel, the river and the mountains which slope to its shores, with their densely planted forest trees and shrubs, decked in the richly variegated tints of autumn.

The whole distance from Philadelphia to Pittsburg by the route we have passed, is three hundred and ninety-three miles; the first portion, over the railroad to Columbia, being 82 miles, from thence to Holidaysburg, on the Canal, 171 miles, the Allegheny rail road 363, and from Johnstown by the Canal to Pittsburg 103 miles.

There is a Canal route from Philadelphia to Middletown, formed by the Schuylkill and Union Canals, and the whole trip to Pittsburg is performed in from twelve to fifteen days. The sum charged for a passage is eight dollars; fifty cents per day for board, making the whole expense from fifteen to twenty dollars. The freight for goods is one dollar and a half per hundred.

The proprietors of the line of Packet Boats are now having built lighter and swifter boats to run from Philadelphia to Holidaysburg, and from Johnstown to Pittsburg; which are to be exclusively devoted to the accommodation of passengers, and will be fitted up in the best possible manner. There will be two spacious cabins—one for ladies and the other for gentlemen, with a kitchen and bar room, and as they will not carry goods, and will draw but little water, it is believed they can be tracked at the rate of at least four miles and a half per hour, if not faster, which will enable them to

make the whole trip, from Columbia, where the rail road and canal lines unite, in four days to Pittsburgh, and in five or six days from Philadelphia, via the canal.

The canal is open by the first of April, and is not closed by ice until the last of November.

But a few years since, it required as long a time to go from Boston to the State of Ohio as to make a voyage to Europe, and keel boats from New Orleans could not reach Louisville in less than from 90 to 100 days; but by the invention of steam boats, the construction of canals and rail roads, and the use of locomotives, the journey may be performed next summer from Boston to St. Louis, a distance of over one thousand nine hundred miles, in from fourteen to fifteen days, and at an expense of not more than fifty dollars;—and this too, without passing a single mile in stages over a common road.

Such are the glorious advantages of internal improvements, and it is to be earnestly hoped that the time is not distant, when there will be but one opinion, throughout the Union, as to the right and expediency of their being prosecuted at the expense of the National Government. The great and flourishing States of New York, Pennsylvania and Ohio have evinced a spirit of enterprise which all should be ambitious of emulating; but each State has not such ample resources, and the nation must execute, what neither individual efforts, or the energy of the States can achieve.

As Pittsburgh is a place of great importance to travellers, as well as those who are sending or receiving goods to or from the west, it is astonishing that a Nileometer has not been established there, and the daily state of the water reported and published in the newspapers. Now those who reside in the east, north, or far west have not any means of knowing whether the steam boats can ascend the Ohio to, or descend that river from Pittsburgh, but by vague and contradictory statements, which irresponsible rumor keeps in circulation. The water has been so low for eight or nine weeks that not a boat could reach Pittsburgh from Cincinnati or Louisville, or leave it for the last named cities; but as the exact state of the water was not known, travellers kept thronging west, and when arrived at Pittsburgh or Wheeling were obliged to wait the 'rise' of the water or take the stage west. I found 21 steamboats at Pittsburgh and all the Hotels filled with passengers desirous of taking passage in them down the river. Some of the ladies and gentlemen had been waiting for weeks; but fortunately a rain on the 9th, produced such a 'rise' in the Allegheny river that it began to be felt on the 12th at Pittsburgh, and a number of boats left on that day and the 13th.

If the Egyptians built a temple in the Nile and established as an important office, the superintendent of the column therein erected, for indicating the rise and fall of the water, to subserve the purposes of agriculture, why should not the rise and fall of this river, be accurately ascertained and daily made known, when it is of the greatest importance to millions, from Maine to Louisiana, and from the Atlantic to the borders of all the tributaries of the Mississippi.

The report of the officer of the Nileometer, at Pittsburgh, would be published in all the eastern and western papers, and constitute a most interesting and valuable item of intelligence. If the editors of the papers in Pittsburgh took as much interest in the steam boat navigation of the western waters, as do those of Baltimore, Philadelphia, New York, and Boston, in the tidings furnished by the Great Deep; and emulate them in efforts to collect and diffuse intelligence, they would by a joint contribution, have a Nileometer of their own, as the ocean editors have news-boats; which seek the distant sail for the latest fact, from all parts of the globe.—*Atlas*.

## CANAL BOAT NAVIGATION ACROSS THE ALLEGHENY MOUNTAIN.

The following shows what can be done in Pennsylvania, although she did not make as much noise in accomplishing it as some of her sister states would have done.—*Har. Chronicle*.

From the Hollidaysburg Aurora.

### MOUNTAIN SAILING.

On Monday last, the inhabitants of Hollidaysburg were permitted to witness a novelty in the tide of emigration, which the completion of the grand chain of internal improvements has caused to flow through this channel, and by which the Mississippi and Delaware have been made, as it were, to unite their waters; and which has opened a new field in which to display the ever varying and never tiring, and almost universally successful talent for developing the undiscovered resources of this great and growing country.

A gentleman of the name of Jesse Christman, from Lackawanna, a tributary of the North Branch of the Susquehanna river, embarked himself and family, in all consisting of eleven persons, together with the necessary requisites for the comforts of a family, to wit: beds, tables, chairs, stoves, cooking utensils, poultry, pigeons, &c. &c. on board a canal boat of the following dimensions, 29 feet long and 7 feet wide, on which he proceeded down the North branch canal to the junction of the Juniata division of the Pennsylvania canal, and up the latter to Hollidaysburg, where he intended to dispose of his boat, and proceed by way of the Portage rail road and western division of our canal to Pittsburgh, on his way to the town of Hennepin in the state of Illinois, upwards of fifteen hundred miles, from whence he embarked on the now tamed waters of the Susquehanna.

Here it was suggested to Mr. Christman, by our friend John Dougherty, proprietor of the Reliance transportation line, that it would be practicable to pass the boat, together with the family and cargo, over the towering heights of the Allegheny mountain, and safely to land the same in the basin at Johnstown, whence they might proceed by water to St. Louis.

Mr. Dougherty accordingly prepared a rail road car, calculated to bear the novel burthen. The boat was taken from its proper element and placed on wheels, and by the superintendence of Major C. Williams, who politely offered his services to play captain of rail road cars and canal boats, (and who, be it remembered, was the first man who ran a boat over the Allegheny mountain.) At 12 o'clock on the same day the boat and cargo, together with the delighted family, began their progress over the rugged Allegheny. It was pleasing to see the comfort and convenience that the ingenuity of man has added to the journey of the emigrant. The whole family were comfortably located in the cabin of the boat, which appeared to glide up the heights of the Alleghenies, unconscious of its being a fish out of water, whilst some of the family were preparing the coming meal, others were lying on their downy pillow, occasionally aroused by the hissing of the steam from the engines at the head of the inclined plains, but they were not to be stopped by this hissing of the puffing auditory, but continued to ascend the proud eminence which the projectors' ingenuity was destined to attain.

And now, you may see her safely resting on the summit of the Allegheny mountain,—night has overtaken them, and there they await the coming morn. As they commenced descending into the valley of the Mississippi, which opens its extended lap to receive all that may wish to enter, and he is no trivial vale, but a wide and far spread country—2,000 miles in length, and 500 in breadth:—how great the stretch of imagination required to comprehend the almost boundless prospect. On the top of the great mountain, this boat

to some may appear a small affair, but greatness is relative. We do not wish to compare it to the vast castles that float on the ocean. Compare them to the ocean, and they sink into insignificance. Compare our boat to the streams over which she presides, and she rises in the scale.

How great she appears when compared to the streams from whence merge the Ohio and Susquehanna rivers, but which are here insufficient to float one plank of our boat—boat did I say, no! of the vast ark of Jesse Christman, of Lackawanna. On Tuesday, our boat and crew left the sunny summit of the Allegheny, and smoothly glided down her iron way to Johnstown, astonishing the natives. She was safely deposited in her own element in the basin at Johnstown, on the same evening, amidst the plaudits of the congregated citizens, after completely establishing Christman's claim to rank second to the ancient Patriarch, whose ark once rested on the heights of Arrarat. A PASSENGER.

**SOMETHING NEW.**—A small covered canal boat passed this port, on Thursday last, which started from Luzerne county, on the North Branch of the Susquehanna. She traversed on her natural element, along the lines of the Pennsylvania canal, down the Susquehanna to the Juniata, and up that river to Hollidaysburg, and then took the rail road, crossed the mountain in cars, and was launched again into the canal at Johnstown. She is freighted with several families and their goods and chattels, who are bound for the state of Illinois.—*Blairsville Record*.

HOLLIDAYSBURG, Oct. 18, 1834.

"On Saturday last, a flat built at Naticoke dam on the Susquehanna river, called "Hit or Miss," Cressman, master, arrived at this port with a family of nine souls on board, and provisions, cooking utensils, bedding, &c. and on Monday, the boat with its contents, was placed on a rail road car, weighed in our scales 4570 pounds, and cleared for Johnstown, where it was launched upon the canal, and is now on its way to the far West. The destination of Mr. Cressman is Illinois. This being the first experiment of the kind, the complete success attending it as regards the transit across the Portage rail way, will, no doubt, induce others to follow the example."

**TOLLS.**—The Canal tolls are rapidly increasing with the fall trade, and they will continue to increase until the close of the navigation. The tolls received at the different Collectors' offices, for the week ending the 18th of October, are as follows:—exhibiting a gratifying increase over former weeks:

Philadelphia	\$1,956 56
Paoli	32 30
Downingtown	121 82
Lancaster	160 91
Columbia	885 44
Portsmouth	2,608 67
Harrisburg	810 41
Duncan's Island Bridge*	204 21
Newport	138 81
Lewistown	294 35
Huntingdon	133 25
Hollidaysburg	1,714 21
Johnstown	1,900 83
Blairsville	74 32
Leechburg	61 57
Pittsburg	503 32
Liverpool	60 96
Northumberland	263 46
Easton	1,253 85
New Hope	131 16
Bristol	284 89

\$13,665 28

\* This report includes payments by stage owners for the quarter ending 30th September.

The tolls received at the following canal and rail road offices up to Saturday the 25th inst. shows a decided increase over the statement of the amount received at the same offices, in the week ending the 18th. The whole amount of toll taken during the year, from 1st November, 1833, to 31st October, 1834, will be about three hundred and fifty thousand dollars.

Lancaster	\$275 81
Columbia	1,211 66
Portsmouth	2,994 03
Harrisburg	841 80
Liverpool	100 77
Lewistown	511 56

\$5,935 63

*Harrisburg Chronicle.*

Correspondence of the Philadelphia Gazette.

## MASSACRE OF WYOMING.

WILKESBARRE, Pa. Sept. 1834.

After one of the most romantic rides, through the lovely valley of Wyoming, where the powers of language fail to convey the enjoyment that every traveller must partake, and that we deeply felt, we arrived at Wilkesbarre, at 10 A. M. and after a little refreshment set off to visit the monument, now being erected at Wyoming, five or six miles distant. We there found a very obliging old man, who took pleasure in communicating to us, all the information in his power. The monument is on the highest spot of ground in the neighborhood, and erected over the bones of the unfortunate sufferers, in the massacre of Wyoming, fifty-four years ago. We visited also an old lady, remarkably intelligent for her age, whose maiden name was Butler. Her father was one of the first forty who ventured from Connecticut into the valley. (then a wilderness,) and afterwards removed their families. There they built a fort, called the Forty Fort, and hearing that the Indians were on the eve of attacking them they retired into it, but became impatient of their confinement, and in the ardor and rashness of youth, more than three hundred sallied forth to meet the enemy, leaving the women and children behind them. They chose the place where the monument now stands, on account of its elevation, for waiting the approach of the Indians whom they did not suspect of being so near; but the blood thirsty men of the forest, bribed and instigated by the English, were concealed among the bushes, and rushed upon them with overpowering force. A few escaped and ran to the river, but some even of these were shot while they were swimming over; the rest were cruelly slaughtered.

The Indians removed their own slain, but left the others lying on the field, and hastening to the village, burnt down every dwelling; then proceeded to the fort, (in which was at the time, the old lady, above mentioned, then a young girl) ordered every individual, infants, mothers, and aged women, to leave it in three hours, under pain of death. Easton, 40 miles distant, was the nearest settlement, and thither the poor creatures bent their steps. Many, however, perished on the way. At the end of six weeks, some of the men ventured back to the scene of their woes, hoping to find the bones of their slaughtered companions, but to their surprise every corpse was as perfect as on the day of the massacre; they had *dried* and could be recognized. They were interred on the spot, and fifty years afterwards the bones were taken up, to be enclosed in a durable box, and placed in one corner of the monument, with due solemnities. Three hundred skulls were found, the most perfect of which have been preserved, and are kept in a little building close by, for the inspection of visitors. We examined them and

found on every one the mark of the scalping knife. In some were large round holes made by the bullets, in others, fractures and holes, two inches in diameter, the work of the murderous tomahawk. We were exceedingly interested by all we saw and heard, and the old lady appeared gratified by the interest we exhibited.

## PENNSYLVANIA ELECTION, 1834.

### CONGRESS.

#### DISTRICTS.

*First*—Joel B. Sutherland.  
*Second*—James Harper,  
           Joseph R. Ingersoll.\* }  
*Third*—Michael W. Ash.\* }  
*Fourth*—David Potts,  
           William Hiestor,  
           Edward Darlington. }  
*Fifth*—Jacob Fry, jr.  
*Sixth*—Matthias Morris,\*  
*Seventh*—D. D. Wagener.  
*Eighth*—Edw. B. Hubley.\*  
*Ninth*—H. A. Muhlenberg.  
*Tenth*—William Clark.  
*Eleventh*—Henry Logan.\*  
*Twelfth*—Geo. Chambers.  
*Thirteenth*—Jesse Miller.  
*Fourteenth*—Jos. Henderson.  
*Fifteenth*—Andrew Beaumont.  
*Sixteenth*—J. B. Anthony.  
*Seventeenth*—John Laporte.  
*Eighteenth*—Job Mann,\*  
*Nineteenth*—Jno. Klingensmith.\*  
*Twentieth*—And. Buchanan.  
*Twenty-first*—T. M. T. McKennan.  
*Twenty-second*—Harmar Denny.  
*Twenty-third*—S. S. Harrison.  
*Twenty-fourth*—John Banks.  
*Twenty-fifth*—John Galbraith.

Democrats 17; Whigs or *Antimasons* in *italic*, 11; new members thus.\*

## PENNSYLVANIA LEGISLATURE—1834—35.

### SENATE.

*City of Philadelphia*—David S. Hassinger, *George W. Tbland.*

*County of Philadelphia*—Geo. N. Baker, Jesse R. Burden,\* Francis J. Harper.\*

*Chester and Delaware*—Geo. W. Smith Francis James.\*

*Montgomery*—John Matheys.

*Bucks*—William T. Rogers.

*Northampton, Lehigh, Wayne & Pike*—Jacob Kern, Peter Newhard.

*Berks & Schuylkill*—Jacob Krebs, Paul Geiger.

*Dauphin & Lebanon*—John Harper.

*Lancaster*—John Strohm,\* Henry Hishman.

*York & Adams*—Henry Smiser, David Middlecoff.

*Cumberland & Perry*—C. B. Penrose.

*Franklin*—David Fullerton.

*Northumberland & Union*—Isaac Slenker.\*

*Mifflin Juniata and Huntingdon*—George McCullloch.

*Centre, Lycoming, &c*—Henry Petriken.

*Luzerne & Columbia*—Uzal Hopkins.

*Susquehanna Bradford & Tioga*—Almon H. Read.

*Bedford & Somerset*—Henry H. Fore.

*Westmoreland*—John Klingensmith, jr.

*Washington*—Isaac Leet.\*

*Allegheny*—William Hays.

*Beaver and Butler*—John Dickey.

*Fayette & Greene*—John A. Sangston.\*

*Armstrong, Indiana, Jefferson, Venango & Warren*, Meek Kelly.\*

*Mercer, Crawford, & Erie*—Thomas S. Cunningham.

Democrats in Roman; Opposition of all kinds in *italic*. New members thus.\* 25 Democrats; 8 Opposition.

### HOUSE OF REPRESENTATIVES.

*Philadelphia City*. Abraham Miller,† Joseph T. Mather,† Wm. B. Reed,† Joseph B. Smith,† Thos. S. Smith,† Henry Spackman,† George Handy.†

*Philadelphia County*. Lemuel Paynter, Thomas J. Heston, Wyndham H. Stokes, Samuel F. Reed, Riel and Peltz, Thomas Lewellen, William Rheiner, jr. A Helfenstein.

*Delaware*. Samuel Anderson.

*Chester*. John Hutchison,† Charles Brooke,† E. F. Pennypacker,† John Parker.†

*Montgomery*. John M. Jones, Joseph Fornance, Henry Schneider.

*Bucks*. Jesse Johnson, Jacob Kooker, Geo. Harrison,† Benjamin Reigel.†

*Northampton, Wayne & Pike*. Jedediah Irish, John Huston, Philip Lynn, Nathaniel A. Woodward.

*Lehigh*. Jacob Erdman, Alexander Miller.†

*Berks*. John Jackson, John Ulrich, Lewis W. Richards, William Hottenstein.

*Schuylkill*. Henry W. Conrad.

*Lancaster*. Frederick Hipple,† Emanuel C. Reigart,† Levin H. Jackson,† Jacob Erb,† Samuel S. Patterson,† Edward Davies.†

*Lebanon*. John Krause.†

*Dauphin*. Matthew B. Cowden, William Ayres.†

*York*. William McClellan, Henry Snyder, Samuel Brooks.

*Adams*. Thaddeus Stevens,† James McSherry.†

*Franklin*. Thomas G. McCullough,† Thomas Carson.†

*Cumberland*. David Emmert,† William Runsha.†

*Perry*. Frederick Rinehart.

*Northumberland*. Lewis Dewart.

*Mifflin & Juniata*. Enoch Beale, William Curran.

*Union*. Jacob Hummel, Ner Middleswarth.†

*Columbia*. Ziba Bennett, Benjamin A. Bidlack.

*Lycoming, Potter & McKean*. John A. Gamble, Thomas Taggart.

*Centre & Clearfield*. Alexander Irvin, John Hasson.

*Susquehanna*. Joseph Williams.

*Bradford & Tioga*. Samuel W. Morris, Lockwood Smith.

*Bedford*. Thomas B. M'Etwee, Michael Reed.

*Somerset & Cambria*. James Imhoff, Joshua F. Cox.†

*Westmoreland*. John Hill, Jacob Christman, James Murray.

*Washington*. David Frazier, William Hopkins, Joseph Lawrence.†

*Allegheny*. William Kerr, James Scott, Robert Anderson, Andrew Byne.†

*Huntingdon*. James Clarke,† Thomas T. Cromwell.†

*Indiana & Jefferson*. Thos. Johnston.

*Armstrong*. James Douglass.

*Beaver*. Joseph Pollock, Abner Lacock,†

*Buller*. Samuel Kerr.

*Fayette*. Robert Patterson, J. B. Miller.†

*Greene*. Thomas Burson.

*Venango & Warren*. James Thompson.

*Mercer*. William S. Rankin.†

*Crawford*. Hugh Brawley.

*Erie*. John H. Walker.

*Anti Jackson* members marked thus (†)

From the U. S. Gazette.

# MR. MILL'S ACCOUNT OF HIS VOYAGE.

On Monday, Oct. 6.

*Mr. Chandler.*—On Monday afternoon I inflated my new balloon at Camden; opposite Philadelphia, using the same kind of materials for generating gas that was employed on the previous ascent. At 30 minutes past 4 o'clock, the car having been attached, and all the appliances arranged, I stepped into the car, which at first seemed unwilling to ascend. Having thrown over some ballast, she started upward 'like a thing of life.' Shortly afterwards, I threw over a bag of sand, which increased the upward gait of my balloon rapidly. At 4 o'clock and 55 minutes, I threw over the living rabbit, suspended to a parachute. The animal reached the earth perfectly uninjured; and was taken up about one mile and a quarter from Camden. At this moment the barometer stood 26 inches, and the height at which I was from the earth was 3654 feet. The wind was a little west of south, and my course was towards Moorestown. At 10 minutes past 5 o'clock, the barometer stood at 22 2 and I was 6960 feet from the earth! This was my greatest elevation. The view at this moment was splendid—roads, towns, farms, the river with its numerous vessels, and the city at a distance—made a delightful prospect. At half past five o'clock, the balloon was 4611 feet above the earth and I discharged a quantity of gas, with a view of coming down to discourse with some of the people below. The descent, however, was very gradual, and at 5 o'clock and 41 minutes the barometer stood at 26, indicating a height of 3,674. Here the balloon passed through a cloud of bugs, about twice as large as the house fly. There was an immense number of these insects. I saw at this time several towns ahead, and descended considerably, in hopes of reaching a current of air to take me to one of them, but I was not successful. I conversed with several persons, and learned the distance at which I was from the city. I was shortly afterwards hailed by persons on the farm of Mr. Joseph B. Lippincott, at 2 miles from Morristown, and requested to come down to them. I told them I would if they would take me to the city. This they at once offered to do, I therefore proceeded onwards to the house, and then descended in the front yard, without the least injury done to myself, the balloon, or the instruments.

After a portion of the instruments had been taken out, the ladies severally got into the car and ascended to the length of the anchor line, and one or two gentlemen also tried a short trip. Having eaten a hearty supper with Mr. Lippincott, the first food taken since morning, my kind host conveyed me and my Balloon to Camden, and I reached the city at half past 10 o'clock.

JAMES MILLS.

## THE OHIO.

### TRADE OF THE WEST—STEAM NAVIGATION ON THE WESTERN WATERS.

A Cincinnati correspondent of the Baltimore Patriot, furnishes some interesting particulars in relation to the commerce of the West, and the navigation of the Ohio. —It seems that this river has been unusually low this season—within 6 or 8 inches as low as it was ever known to be. At the time of the flood in 1832, the waters were 65 feet higher than they were on the 28th of last month. The whole number of boats, says the writer, that navigated the waters during the past year, was two hundred and thirty, whose aggregate tonnage is equal to about forty thousand tons. Some of these are very handsome and are built and furnished in a very superior style. From publications made by Morgan Neville, Esq. of Cincinnati, the following facts are derived.

"The first introduction of steam boats on the West-

ern waters, was in 1811, and from that time to 1829, their number amounted to 323, their united tonnage was estimated at 56,000 tons—the estimate of the cost of these boats was five millions, six hundred thousand dollars, and the repairs on the same number assuming that none of them would last longer than 1852, set down at two millions eight hundred thousand dollars—only 5 or 6 boats were built between 1811 and 1817, and therefore the latter period may be assumed as the epoch of their regular and successful operation. In 1825 they were brought to their present state of perfection. It results then, that the amount expended for building and repairing of steam boats in a period of about 11 years, was equal to \$8,400,000. As the number of steam boats was increasing yearly, no fixed amount can be easily assumed for the yearly expenses, but for the year 1829, the sum was fixed at \$2,500,000. If then \$300,000 be considered as a fair yearly average from 1818, the total amount of money expended on the shores of the Western waters, up to 1829 inclusive, will be little short of \$14,000,000. Mr. Neville, in speaking of the boats on the western waters, says:—"Allowing the cost of building at a rate much lower than the rule adopted three years since the capital now invested in the stock will exceed *three millions of dollars!*" The expense of running is put down at about \$4,644,000 for the year.

"In the New Orleans and Louisville trade, the boats over 200 tons make about 140 trips in a prosperous season—those of smaller size make from 50 to 60 trips. But to go into an estimate of the number of voyages made by the boats in the different trades, is impossible because no regular data are furnished, and the result depends upon a variety of contingencies." "Previous to the introduction of steamboats in 1817, about 20 barges, averaging 100 tons, afforded the only facilities for transporting merchandize from New Orleans to Louisville and Cincinnati; these making but one trip within the year, gave the means of only bringing up 2000 tons. The present tonnage in this trade exclusively having been stated to be 8484 tons, gives the amount employed, amounting to 140 trips in the season, to be 1,187,760 tons, a cause capable of producing a revolution in 16 years hardly equalled in the annals of history." The old price of carriage of goods from the Atlantic seaboard to Pittsburg, was long estimated at from 5 to \$8 per 100 pounds. Within the last four years, merchandize has been delivered at the wharf in Cincinnati, from Philadelphia, by the way of New Orleans, at \$1 per hundred pounds.

From the Philadelphia Gazette.

### PROCEEDINGS OF COUNCILS.

Thursday evening, Oct. 23d, 1834.

#### SELECT COUNCIL.

The resignation of Wm. H. Keating, Esq. as a Trustee of the Girard College, was tendered to Council by the President.

Mr. McCreedy presented a letter from the visiting committee of Will's Hospital, enclosed in a communication from the City Commissioners, asking for an additional quantity of street dirt, for the Will's Hospital lot. Referred to committee on cleansing the city, with power to act.

Mr. Price presented a petition, praying that flag stones may be laid across Seventh and Eighth streets, near Sansom. Referred to paving committee, with power to act.

Mr. Price offered the annexed resolution, which was adopted:

Resolved, That an item of unfinished business, relating to a bequest made to the city, by Samuel Scotten, deceased, of \$12 per annum, to distribute in Bread to the poor, be referred to a joint special committee of two members of each Council

The President appointed Messrs. Price and Keating. Common Council concurred, and appointed Messrs. Williams and Hutchinson.

Mr. Price submitted a resolution, referring to the paving committee the charge and direction of the Broad street rail road, with the minutes and papers of the late committee on that subject, which was adopted.

Mr. Price offered a resolution, referring to a joint special committee, an item of unfinished business, consisting of the reports of the several committees, made to Councils, in Jan. 1833, and in Feb. 1834, in relation to the salaries of city officers.

The resolution was adopted, and Messrs. Price, Wiegand, and McCreedy, appointed on the part of Select Council. Common Council concurred, and appointed Messrs. Dunlap, Burk and Darrah.

#### COMMON COUNCIL.

The President submitted communications from H. J. Williams and Thomas Dunlap, Esqrs. resigning their seats as members of the Board of Trustees of Girard college, in consequence of their election as members of Council.

Mr. Williams presented a petition praying for a revision of the laws relating to hackney coaches, with a view to the removal of many evils which the present regulations inflict upon the community,

Referred to a joint special committee, consisting of Messrs. Williams, Yarnall, Rowland, of the Common Council, and Messrs. Price, Lippincott and Barclay, of the Select Council.

Mr. Gilder, from the paving committee, offered a resolution authorizing the paving of Jacoby street, Howard street, and Lombard street, from the end of the present pavement to the wharf on the Schuylkill, which was adopted. Also an ordinance for regulating the foot way in High Street, between Schuylkill Seventh and Eighth streets, which was likewise adopted.

On motion of Mr. Dunlap, it was ordered, that at the next stated meeting, Councils will proceed to an election to fill the vacancies in the Board of Trustees of the Girard College.

A resolution was offered and adopted, authorizing Messrs. Fraley, Dunlap and Canby of the Common Council, and Messrs. Eyre, Price and Barclay of the Select, as a joint committee, to inquire into the old trust of the Bank U. S. &c. as expressed in a resolution of Select Council, passed Sept. 25th.

A resolution was adopted directing the committee on markets to consider the propriety of erecting engine houses at the east end of the Market house, about to be erected in High street, west of Broad. Select Council concurred.

A resolution was adopted, directing the committee on lighting and watching, to inquire whether any improvement may be made in the present mode of watching the city. Select Council concurred.

#### A LIST

*Of the Joint Standing Committees of the Select and Common Councils, appointed October 17, 1834—for 1834-35.*

Watering Committee.—Messrs. Wetherill, Lewis, Price and Jackson of the Select Council; Lancaster Hutchinson, Warner and Fraley, Common Council.

Finance Committee.—Messrs. Lippincott, Eyre, and Lewis, S. C.; Chandler, Dunlap and Williams, C. C.

Committee on Delaware Wharves.—Messrs. Eyre, Keating and Wiegand, S. C.; Lancaster, Darragh and Canby, C. C.

Committee on Schuylkill Wharves.—Messrs. Price, M'Credy and Roach, S. C.; Gilder, Williams and Earp, C. C.

Committee on Fire Companies.—Messrs. Lewis, Wetherill and Barclay, S. C.; Warner, Wright and Fraley, C. C.

Paving Committee.—Messrs. Gilder, Hutchinson, Arrison and Rowland, C. C.; M'Credy, Price, Jackson, and Barclay, S. C.

Committee on Public Squares.—Messrs. Chandler, Huston, Williams and Paul, C. C.; Lippincott, Jackson, Weigand and Roach, S. C.

Committee of Accounts.—Messrs. Wright, Rowland, and Lamb, C. C.; Roach, Keating, and Weigand, S. C.

Committee on Markets.—Messrs. Yarnall, Darragh, and Lamb, C. C.; Eyre, Jackson, and M'Credy, S. C.

Committee on City Hall and State House.—Messrs. Paul, Dunlap, and Canby, C. C.; Lewis, Price and Keating, S. C.

Committee on Lighting and Watching.—Messrs. Huston, Yarnall and Rowland, C. C.; Lippincott, Wetherill and Eyre, S. C.

Committee on Cleansing the City.—Messrs. M'Credy, Jackson and Barclay, S. C.; Canby, Buck and Arrison, C. C.

#### GIRARD ESTATES.

Commissioners of the Girard Estates.—Messrs. Lippincott, Lewis, Eyre and Meredith, S. C.; Troth, Chandler, Dunlap, and Earp, C. C.

Building Committee of the Girard College.—Messrs. Gilder, Hutchinson, Wright and Burk, C. C.; Lippincott, M'Credy, Roach and Barclay, S. C.

Committee on Girard Real Estate out of the City and County of Philadelphia.—Messrs. Price, Lippincott and Keating, S. C.; Gilder, Huston and Wright, C. C.

#### SPECIAL COMMITTEE.

Committee on Purchase and Distribution of Wood.—Messrs. Yarnall, Chandler and Warren, C. C. Wetherill, Barclay and Weigand, S. C.

SAMUEL J. PACKER, Esq. died at his residence in Sunbury, on Monday last. The immediate cause of his death was the rupture of a blood vessel which occasioned an excessive hemorrhage from the lungs.—The community at large, in common with his friends and relatives, have sustained a heavy loss by the death of this amiable and talented individual. His able and indefatigable services in the Senate of this state had fully established his reputation for ability and industry of the most useful kind, and the inhabitants of this region will unanimously bear witness to the accurate, comprehensive, and statesmanlike views embodied in his celebrated Report on the Coal Trade of Pennsylvania. This document will long be held in remembrance and often referred to hereafter as a state paper abounding with a fund of valuable historical and geological information, alike creditable to the abilities of the writer and important to the interests of his fellow-citizens. As a public servant, the deceased was sincerely and zealously devoted to the best interests of his country; as a private individual, he is represented to have been kind, sociable, and benevolent in his intercourse with all; and in the relation of parent and husband, of the most exemplary character. It has seldom fallen to our lot to record the decease of a more estimable son of Pennsylvania, or one whose character gave a higher promise of future usefulness.—*Miner's Journal*.

A LARGE TOMATO.—Mr. Shepherd, this morning handed us a large tomato, which was raised in the garden of Mr. B. A. Fahnestock near East Liberty, which measures in horizontal circumference 17½ inches, and vertically 14½ inches, and weighs 1 lb. 10 oz.—*Pittsburg Gaz.*

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 19. PHILADELPHIA, NOVEMBER 8, 1834. NO. 357.

## BALTIMORE AND OHIO RAIL ROAD.

Eighth Annual Report of the President and Directors to the Stockholders of the Baltimore and Ohio Rail Road Company.

In the last annual report, the board of directors detailed very fully the situation of the company at that time, and indicated the objects that would more especially engage their attention during the coming year.

These were the completion of the rail road to Harper's Ferry; the construction of the lateral branch to Washington; and the perfection of the application of steam power for the purposes of general transportation.

It now remains for the board of directors to state what has been done towards the accomplishment of these several objects, during the year that has just ended.

### *Main stem to Harper's Ferry.*

The Chesapeake and Ohio canal company, in compliance with the agreement mentioned in the last annual report, whereby they undertook to graduate the road for the rails, along the narrow passes of the Potomac between the Point of Rocks and Harper's Ferry, have very nearly completed the work, and have paid the sum agreed upon, by the rail road company. It is gratifying to the board to be able to add, that the arrangement entered into between the two corporations, has, so far as executed, been carried out in a friendly, liberal and accommodating spirit on the part of the president and directors of the canal company. The intervening parts of the division, between Miller's Narrows and the upper Point of Rocks, amounting to eight miles in length, are now under contract; and it is expected that the whole will be finished soon enough to enable cars to pass the entire distance from Baltimore to Harper's Ferry, eighty-two miles, in all the coming November.

When this shall be the case, a considerable portion of the trade, now carried on at the Point of Rocks, will be transferred to the ferry, and the profit to the rail road company, upon the carriage of goods and passengers, enhanced in proportion to the increased length of road used in the transportation.

Another immediate source of revenue to the company from the completion of the road to that point, will be the greater number of passengers that will be attracted to this route. It is, however, still to be expected, that much of the produce intended for the Baltimore market, and descending the canal, will continue upon it to the Point of Rocks, whilst the goods for the west, which leave Baltimore, will, in like manner continue on the rail road to its present termination at Harper's Ferry.

The advantages thus to be anticipated, when the main stem of the Baltimore and Ohio rail road shall be extended to Harper's Ferry, will be greatly increased upon the completion of the Winchester and Potomac rail road. This, it is understood, may be confidently expected, within the year 1835, when the great stream of western travel will, it is believed, be diverted into this course, aiming for the Ohio river, either at Par-

kersburg, by crossing the mountains from Winchester, or at Guayandotte, by ascending the valley of the Shenandoah to Staunton, and then turning to the west through Jennings's Gap, and by the White Sulphur Springs of Virginia. Indeed, the board of directors feel more and more confident that the Winchester and Potomac rail road is but the commencement of a chain of rail roads, by which the western waters and the cotton growing districts of the southwest will become connected with the Atlantic sea board.

The construction of the road to Harper's Ferry, affords the company a ready access to the fertile valley of the Conococheague, by ascending the ravine of Israel's creek, about two miles below the ferry bridge and thence crossing the country by Hagerstown, towards the Pennsylvania line. The importance and value of this connection with that part of Pennsylvania, of which the Conococheague is the drain, indicates a rail road on this route, most prominently, as one of the tributaries to the main stem of the Baltimore and Ohio rail road, and its construction may be confidently anticipated before the expiration of many years.

The board of directors have effected a friendly and very satisfactory arrangement with the Frederick and Harper's Ferry road company, for the right of way along the bank of the Potomac, above Miller's Narrows, where the canal, the rail road and the turnpike, are all crowded into a slender strip of practicable ground bounded by the Potomac, on the one side, and almost perpendicular cliffs upon the other.

Arrangements are in progress with the proprietors of the property at Harper's Ferry, by which a connection, it is expected, can be effected with the Winchester and Potomac road, by the time that road will be completed.

The legislature of Maryland with a liberality and public spirit that cannot be too highly praised, passed a law at its last session, authorizing the treasurer, to pay to the company the whole amount of the state's subscription to the stock, and the board of directors, availing themselves of the ordinance of the mayor and city council of Baltimore, passed in 1831, to the same effect, found themselves in funds, with the instalments of the individual stockholders, to prosecute the construction of the main stem, to its completion to Harper's Ferry at the earliest day.

The Baltimore and Port Deposit rail road company have recently commenced the construction of their rail road within the city of Baltimore, and have extended it eastwardly from its junction, with the main stem of the Baltimore and Ohio rail road, as far as the line of Canton. A survey and location of the route of this road has been made by Benjamin H. Latrobe, Esq. chief engineer of the Baltimore and Port Deposit rail road company, from whose report, it appears, that the line of country, through which the road will pass, presents peculiar facilities for its economical and judicious construction. Its length from Baltimore to the town of Port Deposit is 41½ miles. This line of road when completed, will connect at its eastern termination with the Oxford and the Columbia rail road, and thus complete the communication between Washington and Philadelphia. The encouragement to the prosecution of this work, is very great, whether we regard the advan-

tages to be realized by it in point of travel and trade, either as a part of the great inland thoroughfare from north to south, or in its connection with the magnificent valley of the Susquehanna.

#### *Lateral road to Washington.*

Since the publication of the last annual report, this road, from the point of its departure from the main stem, at the gorge of the Patapsco, to the line of the District of Columbia, has been put under contract, and has advanced towards completion, with a rapidity highly gratifying. From the experience of the board, in the deep cut near Baltimore, on the main stem, it was determined not to let to contractors the three deep and heavy cuts at Merrill's Patuxent and Snowden's ridges, on the lateral road; but to undertake them under charge of good superintendents, by the company itself. This was accordingly done, and the saving that has already been effected, upon the lowest bids that were offered by responsible persons, has exceeded the expectation of the board, and has fully justified the propriety of the course. These cuts, with the stone bridge across the Patapsco, will be the last portions of the lateral road, now under contract, that will be completed; but it is believed that the rails will be laid, and the road ready for use to the district line by the first day of July next. Within the District of Columbia, the ground has not been broken, but the board have it in contemplation to proceed forthwith to the construction of the remaining portion of the work, as far as the city boundary. The board have already taken measures to secure the requisite number of passenger cars and locomotive engines, to be placed on this line as soon as it will be in readiness.

An application was made to Congress, at the last session, for terminating it, at or in the immediate vicinity of the general post office; and a bill granting \$350,000 dollars for the construction of the road and the erection of depots, buildings, &c. was passed by the senate, but failed in the house of representatives.

The failure of this application would have been the more to be regretted, and must have occasioned serious embarrassments to the company, but for the liberality of the legislature of this state, at its last session, by which it consented to advance, at once, its entire subscription of \$500,000, and to exchange the 4½ per cent. stock, that was to be issued for it, by the terms of the original subscription, for a five per cent. stock, which could be more readily and profitably disposed of, so as to secure the company the full amount, in place of obliging them to suffer the loss inevitable upon attempting to force a four and a half per cent. stock into a depreciated market.

In the construction of the Washington road, the board have had regard to its durability, not less than to making it a source of immediate profit to those interested in the undertaking. The experience of the main stem has conclusively shown, how important it is to avoid the expense of repairs of the rail way, which not only materially affect the revenue, but occasion constant interruption and inconvenience to the travel on the road.— True economy consists in constructing the road in the first instance, so as to obviate the necessity of frequent repairs, and to enable the motive power used in transportation to be employed to its fullest effect, without the fear of injury to the rails or bridges, over which it passes in the performance of its daily work.

The board have, therefore, adopted the iron rail on the Washington road of 40 lbs. per yard, as proposed by the chief engineer, and modified in the shape of its face or surface by Ross Winans, and have caused all the viaducts to be built of stone, of the most permanent, yet simple construction. The granite viaduct over the Patapsco, consisting of eight elliptical arches of fifty-eight feet span each, with the road way sixty-six feet from the surface of the water, the design of Benjamin H. Latrobe, assistant engineer in the com-

pany's service, will, when completed, be the largest structure of the kind in the United States. The facility with which all the material for this bridge have been procured from the quarries on the Patapsco on the line of this rail way, has enabled the contractor to build it for a sum comparatively moderate, and it is believed that, when completed its cost will be within the original estimate, upon which it was determined to undertake it. The massive materials of which it is built, the care that has been taken in putting them together, and their foundation on the solid rock, are sure guarantees of its continuing durability. The stone viaducts over the two Patuxents, and that over the north western branch, near Bladensburg, are finished, and the board are assured by the enterprising constructor, John McCarty, that the viaduct across the Patapsco, will be completed in season to receive the rails with the other parts of the lateral road.

The board are gratified in being able to state, that enough has been done, on the lateral road, to satisfy them that its cost will fall short of its original estimate upon which the calculations, as to its probable profits, were based.

#### *Machinery and motive power.*

At the time when the construction of the rail way approaches so nearly its present termination, the subject of machinery and motive power becomes of paramount importance, in considering the situation and prospects of the company; for upon the cheapness and efficiency of the motive power, depend, in a great degree, the profits of the stockholders.

From the first opening of the road for travel to Elliott's mills, the board have had this subject under constant and anxious consideration. It was doubted, in the first instance, whether upon a rail road, with curves of only 400 feet radius, steam could be employed, or if employed, whether it would not be more expensive than animal power. This doubt has been removed, and the board are indebted to Peter Cooper, Esq. for proving the practicability of using anthracite coal for the generation of steam in locomotive engines; and to the efforts of Phineas Davis for having perfected this experiment, in conjunction with the engineers and officers of this company, and for demonstrating that these engines could be employed advantageously upon a road of such curvatures. In the last annual report the board explained the advantages that were anticipated from the peculiar construction of the engine with vertical boilers, adopted by the company, and they have now the satisfaction to state, that every anticipation has been more than realized, not only as regards the durability of the boiler, but the efficient power of the engine upon the rail way.

During the last year, the boilers of the Atlantic and Traveller were opened, after they had been running at various times, about six months in all, at the average of 80 miles per diem, with anthracite fires. The tubes were most carefully examined, and the severest scrutiny could not discover that they were in any degree, inferior to what they were when first inserted, although no repairs whatever had been done to them in the interim. The inside of the boiler exhibited satisfactory evidence that the circulation of the water while subjected to the action of heat, and which has been considered so important, had been fully obtained, and that, to it, was to be attributed, in a great measure, the preservation of the tubes, uninjured, for so long a period.

The "Atlantic" and the "Traveller" were found in many particulars susceptible of being much improved; and advantage was taken of the experience which they afforded, in the subsequent construction of the engines. One of these, the "Arabian," was completed and put upon the road in July last, and on the 1st of September, when a report of the chief engineer was made, had worked for upwards of 40 days, at eighty-two miles

per diem, in which distance the fire was never relaxed, without a day's interruption and without any repairs, and it was then in excellent order, nor was there any reason to believe, that it would not continue to do its daily task uninterruptedly, as long as the best engines that have been produced on either side of the Atlantic. It continued to run regularly from the 1st of September to the 11th of that month, making in all, 50 days, during which it travelled 4,100 miles, without requiring the smallest repair. On that day, by coming in contact with a stone, it was thrown off the road and slightly injured, so as to require some repairs. It has since been replaced in the line, and is now again regularly performing its trips as heretofore.

The weight of the "Arabian" when running is  $7\frac{1}{2}$  tons, with the full quantity of water and fuel in the boiler, of which 3 tons 17 cwt. rest upon the forward wheels, and 3 tons 13 cwt. on the hinder wheels. The fire surface of the boiler is equal to 335 square feet, the cylinders are 12 inches in diameter, with a 22 inch stroke; and, under a pressure of 50 pounds to the circular inch, with the steam blowing off during the experiment, the engine has drawn 112 tons 18 cwt. 1 qr. gross, exclusive of itself and tender, at the rate of 11 79-100 miles per hour, on a level road, and carried the same load, though at a speed diminished to between six and seven miles per hour, up an ascent of 17 feet to the mile, occurring in a curve of rather less than 1,000 feet radius. In this experiment all the four road wheels were geared together, and the steam produced by the boiler was found to be superabundant. When it is remembered, that the "Arabian" is only the third engine that has been constructed with a vertical tubular boiler, there is every reason to expect improvement in those which shall be built hereafter.—In this engine, the steam, after being used in the cylinders, is made to pass round the boiler through hollow bands, within which are the pipes from the pumps to the boiler, and before it escapes, is employed in giving motion to the fan, by which the draft necessary for the proper combustion of anthracite, is produced. The simplicity of this contrivance, which belongs to Phineas Davis, by which the water is heated before it goes into the boiler, and the proper heat of the furnace is kept up, is only equalled by its value.

The board feel the more satisfaction in the statements which they are thus enabled to make, because, during the experiments which have had so happy a result, they are aware, that they may have been censured occasionally, for not at once adopting the English engine, by those who, unacquainted with the difficulties caused by the peculiar location of the Baltimore and Ohio rail road, believed, what was far from being the case, that the improved engines of Stephenson would answer as well upon it, as they did upon the Liverpool and Manchester rail road, or upon any of the comparatively straight rail roads in this country. There are now four effective engines on the road, the "Atlantic," the "Traveller," the "Arabian" and the "Mercury," and the board expect in a few days, to have two more, upon the same plan, the "Antelope,"\* and the "American," for which they have contracted with Charles Reeder, of this city; in addition to which, there are eight more ordered and under contract.

The facilities which were anticipated, in the last annual report, from the erection of workshops for the construction of engines, on the company's depot, have been fully realized, and will become more and more important, as the number of engines increase, and the entire transportation of the road is effected by them.

\* Since this report was prepared one of these engines has also been placed on the road, and is now on trial, with every prospect of success.

In the other departments of machinery, there have been several valuable improvements, tending to simplify of construction and the diminution of the wear and tear.

After the experience of several years, the board have come to the determination of employing an eight wheel car invented by Ross Winans for the transportation of passengers. This consists of two sets of ordinary running gear with steel springs, each set having what may be called a rose bolt, equidistant from the centre of motion of each wheel. The two sets are placed at the desired distance apart, and connected by a frame, stiffened by a thin iron plate on the sides, on which frame the body of the car rests. The great advantage of this mode of construction consists in the steadiness of the car, when moving on a curved road, or on one whose surface is uneven or slightly out of repair; for the two sets of wheels accommodate themselves to the inequalities of the surface, without affecting the car, resting as it does on the centre of each set. Another important object, which is attained, is safety; for while, in the ordinary four wheeled cars, the breaking of a wheel or axle, might be productive of the most fatal consequences, such could not be the case, where with eight wheels, there would be enough left to support it on the track until the train could be stopped. Again, upon a curved road it is necessary to place the pairs of wheels, of a four wheeled car as near as possible, so as to diminish friction, and this makes it necessary to build the body of the car very short, to prevent a disagreeable, and at times, dangerous vibration from side to side while the car is in rapid motion. In the eight wheel cars, on the contrary, the pairs of wheels of each set are placed as near together as can be desirable, under any circumstances, and the sets themselves may be as far apart as may be necessary to accommodate a car of any length, without increasing the friction on the rails when passing curves of the least radius, or producing the lateral motion complained of. In point of economy too this mode of construction is much preferable to the one hitherto employed.

For further particulars in relation to this department the board refer to the reports of the proper officers.

Having thus gone over those subjects which were particularly noticed in the last annual report, as claiming the attention of the board, during the year that has just elapsed, it is necessary now to advert to the situation of the business of the company, at this time, and to look forward to what may be the events of the next few years.

It was to have been expected in the diminution of business, generally, throughout the country, since the date of the last annual report, that the receipts of the company would have been materially reduced, and such too was the opinion currently entertained. This however, has not been the case, and by a comparison of the receipts for corresponding periods in the official years 1833 and 1834, it will be found, that instead of being diminished, they have increased. This result is truly gratifying, since it is to be attributed, not to the augmentation of the trade at any one place, but to the multiplication of places with which trade is carried on by means of the road. If this has been sufficient, during a season of general depression, to prevent any decrease in the receipts of the transportation department, it may be safely expected, that when the business of the country rises again to its ordinary standard, the receipts of the road, even from the present sources, will be most materially augmented. In addition, however, it must be recollected, that the sources of revenue have been steadily multiplying, since the road was first opened, and will, no doubt, continue to do so for many years to come. This, with the reduction of the expenses of transportation, caused by the employment of steam power in its most efficient and economical mode upon the road, will, it is believed, eventually secure a profitable return to the stockholders. For particulars

relating to this branch of the service, the board refers to the report of the superintendent of transportation, [see appendix, document C.] where all the details will be found carefully digested. To the activity and foresight of this officer, the board are much indebted for the extension of the business of the road into several sections of the country, the produce of which, before sought other modes of conveyance to market.

At a time when the road approaches so near to that point which, as has latterly been generally understood, must limit its extension for the present, and where it unites with the Winchester and Potomac rail road, it is perhaps expected that the board of directors should express their opinions as to its further progress.

This seems to be more particularly called for, while the mind of this community is so feelingly alive to the efforts which have been successfully made by a rival city, to draw from its more appropriate channel, the rich commerce of the western valleys. The Baltimore and Ohio rail road, indeed, resulted from the public opinion which, in 1826-7, declared the necessity of an effort on the part of the city of Baltimore, to maintain possession of a trade, heretofore enjoyed, essential to her prosperity, and threatened by the enterprising public spirit of the neighboring states. Those to whom the great enterprise of a rail road communication with the west, was intrusted, were furnished by their constituents with the splendid but vague idea, only of a bird's flight line to the Ohio river. The subject was a new one in the United States, and indeed, almost new in England; and although the best talent within the reach of the company was obtained, every step taken for several years after the commencement of the operations, was necessarily in the nature of an experiment. In looking back now with the experience that has been acquired, it is easy to see where money might have been saved, and how much more work could have been done in the same time; and were the road to be commenced to-day, it is not to be doubted that it could be more economically constructed. At the time too, that the Baltimore and Ohio rail road was projected, the great avenue of the west, the river Potomac, was apparently open to the company, and the use of it for the construction of the road, was contemplated after the report of the first reconnaissance of the engineers was received. This avenue, however, was closed by judicial decision; and it was by agreement and purchase only, that the company have been able to advance as far as the Shenandoah. As one of the considerations of this agreement, the rail road company was obliged to stipulate, that it would not attempt to ascend the banks of the Potomac beyond Harper's Ferry until the canal should be finished to Cumberland, provided this were done within the time allowed by the present charter of the canal company; so that, although the route to the west, by the valley of Virginia, is still open, yet further progress up the Potomac, is, for the present, not to be expected; and the immediate design of the proprietors of the road is necessarily postponed in its accomplishment. Under these circumstances, it may be well asked, what are the views of the board, with regard to that communication with the west, which the company was created to effect.

It has already been remarked as well in this, as in the 7th annual report, that there was every reason to believe that a communication with the west might be affected by means of the valley of Virginia, and that as soon as the Winchester and Potomac rail road should be finished to Winchester, a great portion of western travel and transportation would seek the Ohio river by that route, and that perhaps, ultimately a rail road from Winchester and Staunton, and from Staunton through Jennings's Gap, would complete the entire rail way communication.

In anticipating the adoption of this, however, as a practicable mode of establishing the desired connection

with the western waters, the board have never lost sight of the original route by the Potomac, and they still firmly believe, that this will one day, and that not a very remote one, be accomplished.

In the opinion of the board of directors, the immediate interest of the stockholders, as well as the city of Baltimore and the state of which Baltimore is the heart, and the emporium, *now lies in the completion of the Chesapeake and Ohio canal to Cumberland*; both in reference to the agreement of compromise already alluded to, and as forming an important link in the chain of communication, and furnishing a means of conveyance from the coal mines to tide, or to the junction with the rail road at Harper's Ferry.—For the present, therefore, the board would not think, even if they had it in their power, of making the rail road parallel with the canal; but taking up the route where the canal terminates, at Cumberland, would push it across the mountains, upon the trace originally intended for it, and to the point of its original destination. The Chesapeake and Ohio canal and the Baltimore and Ohio rail road ceasing to be, as they were for many years, hostile opponents, would then be united in interest, in every particular, and would jointly afford the desired communication. If, at any future day, the state of the trade should require it, and the income of the road should justify it, freed from the condition that now fixes Harper's Ferry as the western limit on the Potomac, the road might be brought down the river, and the continuous rail road communication, at first designed be finally accomplished.

In the prosecution of the design thus marked out, the parties most deeply interested are the state of Maryland and the city of Baltimore; and it is to the public spirit and liberality of these, that the board confidently look for the means to prosecute it successfully.

The state will soon be in the receipt of a very large annual income, without cost to herself, from the bonus which she received for the Washington rail road charter. The income thus derived from internal improvement cannot be better applied than in prosecuting the system of which it is the result, and will constitute a fund for the payment of the interest on any loan, that the state may find occasion to make, in granting her aid to the completion of the plan already indicated.—She will be the more influenced to lend her aid too, when, as is most confidently expected, upon the completion of the Washington road, and the road to Harper's Ferry, she will derive in common with the other stockholders, a profitable interest upon her investments in those works; and when internal improvements, besides adding, as, at all events, they will do, to the wealth, convenience, and happiness of the people, will become a source of actual and clear gain to the state.

The city of Baltimore, has, it is true, no fund like that of the state's bonds, to induce it to embark in the work, here mentioned; but it has still stronger inducements than any affecting the state at large. The certain improvement of every description of property, the increased prosperity of every class of the community, the multiplying population, the constantly accumulating trade, which must be the certain consequences of the completion of the road to Ohio, surely offer sufficient inducements, for active effort and the most liberal contributions, even if the alternative were but to remain as our city now is, without either advancing or retrograding. But how strong do these inducements not become, when the alternative is the gradual loss of all that constitutes the wealth and prosperity of a commercial city, as the superior enterprise of a neighbor, overcoming the natural obstacles which gave to Baltimore the advantage over her, obtains possession of all the best sources of trade, leaving Baltimore in the condition of some village, on a once frequented highway, which a new and better road has left silently to decay.

Under these circumstances, and for these considerations, the board of directors cannot doubt, but that the time will soon arrive, when the state of Maryland, and the city of Baltimore, identified, as they are in fact, and as they ought to be in feeling, will lend that aid which they can so readily do, to insure the completion of the communication to the west, upon the plan here suggested.

All that is necessary to hasten that time, is vigorous and concentrated efforts on the part of those most deeply interested, and the board cannot for a moment doubt, that these efforts will speedily be made, by their constituents and their fellow citizens.

For a full exhibit of the receipts and expenditures of the company during the past year, the board refer to the report of the treasurer [See appendix, document D.] On behalf of the board,

P. E. THOMAS, President.

October 6, 1834.

### Locomotives.

From the report of Mr. Geo. Gillingham, superintendent of machinery, to the President of the Baltimore and Ohio rail road company, dated on the 1st instant, we make the following interesting extracts:

Although the rail road system originated in England, yet it was very evident that the best constructed machinery in use there was exceedingly defective, and that unless several material improvements could be effected in the parts most liable to wear, and also in the construction of locomotive engines, the expense arising from repairs and renewals would seriously affect the success of the rail road here. Our attention, therefore, was from the first especially directed to the improvement of this all important branch of the system, and our progress has been considerable, in every particular. A great reduction of friction, as well as of the consumption of oil, has been attained, and a degree of permanence given to the road wheels, which has, it is believed, never heretofore been effected. Some of these have traversed a course of about 24,000 miles without exhibiting evidence of being perceptibly impaired—This permanence is owing to an increase in their weight and to the introduction of a strong wrought iron ring into the interior of the rims of the wheel, and a more perfect chilling or case hardening of its periphery, especially the conical part of it.

The machinery now on the road, and in active use, is as follows:

1st. The Atlantic, now undergoing an alteration which will render her equal in power to the other engines more recently built.

2d. The Traveller, employed in the transportation, between the depot A and Ellicott's Mills, of passengers and goods.

3d. The Arabian, which continued for 50 days in succession to run from the depot to the plains with the Frederick trains of passenger cars, the daily expense being as follows:

Coal, $1\frac{1}{2}$ tons, at \$6 per ton,	\$7 50
Engineer,	2 00
Assistant ditto	1 50
Oil	50
Interest on cost	75
Contingencies	1 00
	<hr/>
	\$13 25

To this it will be safe to add three dollars per day for repairs that may become necessary to maintain the engine in good order.

4th. The Mercury, of the same power as the Arabian, has been running 20 days at the same daily expense as stated above.

The above mentioned four engines were built by Phineas Davis, who, from his first effort in constructing

the York, to the full attainment of the Herculean powers of the Arabian and Mercury, has made rapid advances in perfecting these machines, affording encouraging prospects of still farther improvements. As far as the experiment has been made, the cost of transportation is lessened, and it has already been ascertained that when steam power shall be so far employed as to enable us to dispense with horse power, the balance will be found materially to preponderate in favor of the former.

The report states that four new passenger cars have been constructed during the year, three of which are on eight wheels, and one on four wheels. Four of the old cars have been repaired, and placed on eight wheels.—The total number of passenger cars now in use on the road, is thirty-four. The number of burden cars now in use on the Ohio road, (exclusive of twenty-seven employed on the Washington road) is *one thousand*.

The ten passenger cars ordered to be built for the Washington rail road, and which, when completed, will convey upwards of 350 passengers comfortably, are now under construction, and will be ready for service, as will also the four new locomotive engines intended for that road, by the time it is finished.

In relation to the duration of wheels, it may be stated that those with metal rings in them, upon the following named passenger coaches, have performed as underneath, whilst several of the same wheels present but little appearance of deterioration, viz:

	Days.	Miles per day	Total.
The coach President,	309	82	25,338
" Virginia,	300	82	24,600
" Allegheny,	290	82	23,780
" Shenandoah,	259	82	21,238
" United States,	240	82	19,680
" Pioneer,	220	82	18,040
" Maryland	240	82	18,450
			<hr/>
			7) 151,127
			<hr/>
		Average,	21,589

From the Wyoming Herald.

### RAIL ROADS AND CANALS.

Mr. Printer—

In several previous numbers I have spoken of the noble improvements ascending from the great cities of New York and Philadelphia towards our rich and delightful valley. Completed to Mauch Chunk, within 30 miles of us—or, by the course of the proposed route, within 40 miles, shall we not arouse ourselves and break down this narrow barrier, this prison wall that separates us from certain prosperity? or shall we fold our arms in listless apathy, and let the golden opportunity to open to ourselves a way to market, be lost.—The winds blow not in one direction, always: Tides ebb and then flow. Now is the spirit of the people up, and energetically active in improving the country—making rail roads and canals. Who doubts but this excitement will have its day, and then give place to some other—perhaps a popular war? It behoves us, therefore, citizens of Luzerne, to catch old time by the foretop—to make hay while the sun shines—to take advantage of the spirit of the hour, and carry through, from Wilkes Barre to Mauch Chunk, such works as will open to us the use of the canals that lead from thence to the most desirable markets. What is the difficulty? What paralyzes our efforts? What opiate lulls us to sleep? Is not this one great difficulty—that we are perplexed by conflicting interests and bewildered by various plans and opinions? One would have a rail road part of the way and then a canal—another would have a rail road all the way. One, amply able to give cor-

rect information, has furnished me with a statement of the relative cost of transportation on canals and rail roads, by which it would appear that canals are very far preferable; but it should be taken into the account that the estimate is made on a canal of the capacity of the Lehigh, which is considerably larger than those of the state, and transportation thereon, of course, less expensive; still the result is vastly in favor of going to market by canals, every mile we can. It is our imperative duty to economise even to the fraction of a cent, if we mean to carry our coal to New York.

But take the calculation; it will be found curious and useful; the intelligent reader, we feel assured, will have a pleasure in looking it over; and when read, we shall add a remark or two:

We have now several years of experience in this country as well as in England, of the practical results of rail roads and canals. The cost of transportation on the Lehigh, Delaware, and Raritan Canals, compared with the proposed rail road down the Lehigh, may be put essentially as follows, viz: Assuming that a locomotive will draw 40 tons of coal 40 miles down the valley and return the same day, (the same as it is understood they have done at Little Schuylkill, where they go twice a day, 20 miles,) and that a boat, similar to those on the Lehigh, will carry 80 tons drawn by two horses, and go 10 miles out and back again the same day, or say one quarter as far as the locomotive; and that the boat, horses, and locomotive and coal wagons, will all travel equally distant to wear out, and require an equal per cent., on the first cost to keep them in repair, while they do last: (and when this is allowed, it is presumed all will agree that an advantage is yielded to the locomotive and cars; for surely their rattling on a road will not allow them to last as long, or go the same distance, as a boat in its smooth waters.) Let us assume the duration of the wagons and locomotive 500 days, at 80 miles a day, is 40,000 miles; and the boats 2000 days, at 20 miles a day, is also 40,000 miles; and thus all performing the same work and go the same distance to wear out.

#### CANAL.

One boat like those on Lehigh, with 3 hatches for going to New York,	350
Two horses,	200
Horse feed, 80 cents a day, 2000 days,	1600
Add one eighth for winter	200
Hands—Capt. \$1, man 80 cts. boy 60, tow rope 10 per day, 2000 days	5000
Interest on capital \$550, 8 years,	264
Repairs, 20 per cent., on \$550, 8 years,	880
	<hr/> \$8494 00

Total cost for transporting same quantity same distance as rail road, 80 tons 40,000 miles, is 3,200,000; divided by 8494 is 26½ cents per ton per mile. Add same per load, being only one way as coal, is 53 cents.

#### RAIL ROAD.

29 cars 2½ tons, each \$150	\$4,350
2 locomotives, \$5000.	10,000
Fuel same as Baltimore rail road, 2 cords wood or 1½ tons coal for 80 miles to each locomotive, at \$4 a ton, 500 days,	5000
Hands—engineer \$2, fireman 1, 2 break men, 2 for each locomotive \$10 a day, for both 500 days,	5000
Oil for both engines and the 29 cars, 1500 gallons at \$1 12½	1688
Interest 2 years on cars and engines,	1722
Repairs 20 per cent 2 years on do do	5740
	<hr/> \$33,500

Total cost for transporting same quantity same distance as canal, 80 tons, 40,000 miles, is 3,200,000;

divided by 33,500, is 1.04 cents per ton a mile. Add same for load, being only one way like coal, is 2.08 cents.

The cost of transportation by locomotive, as given by the Engineer of the Baltimore and Ohio rail road, in 7th report for 1833, he estimates with full loads, one way, like coal, 3.49 cents a ton a mile.

The preceding is the best theory I have arrived at. The practical results I have collected, are as follows.

CANALS.—The transportation from Mauch Chunk to tide this season, we are assured has been 80—100 cents per ton a mile.

RAIL ROADS.—On the Baltimore and Ohio rail road, they now charge 3 to 6 cents a ton a mile going west, and going east with produce 4 cents a ton a mile. Allow the toll 1 cent a ton a mile, then the transportation West on the lowest rates is 2 cents: and produce going East to Baltimore 3. The freight of valuable merchandise, and number of passengers, at still better prices than merchandise, authorizes them to make their minimum prices very low as above. The Liverpool and Manchester rail road, per their report for the six months ending 31st December last, states 98,031 tons merchandise, and 215,071 passengers were transported, —that merchandise cost, including wear of road, a ton a mile.

Locomotive power,	5 cts.
Maintenance of road,	1 66
	88

Here, they mine coal for their engines on the line of the road: Iron for their work is cheaper than in any other country, and experience in engine building not exceeded anywhere; and it may be added that the loads are nearly equal both way, and not like our coal freights, which are only one way.

The above statements being from official sources, may without doubt be relied on. And they prove beyond question, two things—which conclusively determine the relative value of Canals and rail roads. 1st. That the cost of the maintenance of the rail road (where every thing essential is cheap, and having a large run of regular business) does not cost less than 88 | 100 cents a ton a mile. If when we allow a fair profit to the owners, which it is presumed will not be less than 50 per cent, add to the repair account makes it 1.33 cents a ton a mile as a fair toll. A canal under the most favorable circumstances above, costs 33 | 100 cents a ton a mile, and if we add one cent for toll, both together make but the toll on a rail road. 2d. Take the transportation (exclusive of the toll.) The lowest rates is on the Baltimore rail road, and that is 2 cents a ton a mile going west, and 3 cents a ton a mile going east to Baltimore, being 2½ to 8½ times as much as is now paid on the Lehigh canal, and if we add a cent a ton a mile toll on the Lehigh, it is more than toll and transportation put together. It thus makes the toll itself, on a rail road, as much as ample toll and transportation on a canal: and also, the transportation on a rail road, exclusive of toll, more than transportation and toll together on a canal. Or, putting the toll and transportation together, for they constitute the necessary total cost of transportation, then by the canal it may be put down at \$1.80 cents a ton a mile—and by rail road 3 to 4 cents, or more than twice as much as by canal.

Look at the consequence of the two projects—by the rail road all the way to Mauch Chunk, or by rail road to Wright's creek and thence by canal; take Wilkes Barre as a point:

By rail road to Wright's creek, 14 miles at 6 cents, is	84
Rail road down Lehigh to Mauch Chunk, 26½ miles, at 5 cents,	132½
	<hr/> \$2 16½

By canal, say rail road to Wright's creek,  
14 miles, 6 cents, 84  
Canal down Lehigh to Mauch Chunk 26½  
miles, at 1¼ cents, 46½  
— \$1 30½

Loss a ton by rail road down Lehigh to  
Mauch Chunk, 86

If, then, the saving on a ton of coal, from Wyoming, taking canal at Wright's creek, to Mauch Chunk, over a transportation the whole way by rail road, is 86 cents, the matter, as it regards us would seem to be settled.

Is it not then clearly our duty and our interest to encourage the Lehigh company, the public at large, and each other to push the canal up from Mauch Chunk to Wright's creek; and to arouse all our energies to form the rail road from that point to Wilkes Barre. The Lehigh company has expended immense sums, liberal portions of which have flowed into the pockets of the citizens of Luzerne for provisions, and labor; they have accomplished one of the most noble, extensive and useful works ever undertaken by a private company of men. Without asking us to be generous, is it any thing more than sheer justice that they should be regarded with an eye of favor, and saved at least from relentless persecutions? But we and they have conflicting interests? To what an extent? Meeting in a liberal, just and conciliating spirit, are not the points of difference easy of adjustment? And is there any thing more palpably plain, than that it is for our interest and their interest, that there be a perfectly good understanding between us; leading to united, harmonious, and vigorous action for the common weal?

A CITIZEN.

For the Register.

#### LUNAR PHENOMENON.

MR. EDITOR—

The following account of a Luminous Phenomenon which I lately witnessed, may prove interesting to some of your readers.

On Saturday evening, the 20th of September, I was walking in company with Mr. Frederick S. Eckard of this city, through a grass field about one-fourth of a mile south west of the village of West Chester, in this state. Directly after we entered the field, Mr. E. who was some six or eight feet behind me, inquired whether I saw any thing unusual about the head of his shadow which was cast in the clear moonlight upon the right side of the path. Upon looking I could observe nothing peculiar about his shadow which was long and well defined, but on glancing at my own I discovered the head encircled by distant light or halo, about three or four feet in diameter, which Mr. E. told me was precisely the same appearance that he observed around his own. These luminous circles attended our shadows as long as we continued in the open field through which our path ran for nearly half a mile. Neither of us could discover about the shade of the other, the least appearance of the light or halo which shone around his own. The following circumstances which attended this beautiful and interesting exhibition may lead to a solution of its cause. The night was clear and the dew deposited upon the grass so heavy, that it could be collected freely with the hand. The moon shone very brightly in the east, and was at an elevation of about 15 or 16 degrees. The direction we were pro-

ceeding was about south west. I regard the phenomenon as essentially of the nature of the rain bow, the lunar rays having been reflected and refracted upon the eye from the drops of dew deposited on the grass; and although I have never heard or read of such appearances before, they must have been frequently seen by persons walking through grass or grain fields with the moon low in the horizon, and shining brightly.

Yours respectfully,

G. EMERSON.

Philadelphia, Oct. 30th, 1834.

We have in Vol. IV. page 100, published a detailed description of the Meschianza, by an English officer. The following is by an American, and was found among some rubbish in a garret We copy it from the U. S. Gazette.

#### SOME ACCOUNT OF THE MESCHIANZA.

By one of the Company.

PHILADELPHIA, }  
Monday, May 18th, 1778. }

#### THE REGATTA.

Agreeable to an invitation of the Managers of the Meschianza, Dr. M., Mr. F. and myself went up about 4 o'clock in the afternoon, in Mr. T. P.'s coach, to Knight's wharf, where we found most of the company in the boats:—

Mrs. Chew, Mrs. Hamilton, Mrs. Worrell, Mrs. Cox, Miss Chews, Miss Auctumuty, Miss Redman, Miss Franks, &c. were in the Hussar Galley, with Lord Howe. Gen. Howe, Sir Henry Clinton, Lord Rawdon, &c. and General Kniphausen and his attendants, were in another galley.

We continued waiting on the water, for the rest of the company, near half an hour; when, a signal being given from the Vigilant, we began to move in three divisions, a galley and ten flat bottomed boats in each division.

In the first was General Kniphausen, &c.; in the third, British and German officers; and, in the middle, Lord and General Howe, &c. with three barges, in each of which were bands of music playing. Opposite to the place of embarkation lay the Vigilant in the stream, completely manned. As soon as the boats had passed, she gave three cheers, which were answered by three from the sailors in the general's galley. Opposite Market street, lay the *Fanny*, a ship of 20 guns, decorated with colors; the standard of Great Britain being at the mainmast head. Here we lay on our oars, while the music played *God save the King*.

About seven o'clock we landed, upon pontoons, at the old fort, directly opposite Mr. Wharton's house.

When the General had got on shore, the Roebuck fired a salute of nineteen guns, which was taken up by the Vigilant, and several smaller vessels, up and down the river. The fleet, at the wharves, consisting of about 300 sail, were adorned with colors; and together with the procession, exhibited a very grand and pleasing appearance.

The company having landed, we walked up, between two files of grenadiers, to a green, (about two hundred yards from the place of landing,) which was raised in, and formed a kind of circus of 400 yards on every side. Here the Dulcineas ascended two thrones, six on one and six on the other. They were dressed in Turkish habits of white silk. The rest of the company stood

in a line with them. As soon as they were seated, the crowd on the left hand gave way, and six knights, mounted on white steeds, elegantly caparisoned, and covered with white satin, ornamented with pink roses, &c. appeared. The knights were dressed in white and pink satin, with hats of pink silk, the brims of which were covered with white feathers. Each knight had his squire on foot, dressed also in white and pink, with the addition of a cloak of white silk. Every squire carried a spear and shield, each of which had a different device and motto. These six knights were preceded by a herald and two trumpeters, together with a chieftain, who was attended by two squires, and two black boys naked to the middle, with striped trowsers rolled up above the knees, blue silk sashes across their bodies, large turbans and tin collars, and bracelets on their left arms, held the chieftain's stirrups. These knights sent their herald, with the two trumpeters to the dulcineas, with this message: "The knights of the Blended Rose, by me their herald, proclaim and assert that the ladies of the Blended Rose, excel in wit, beauty and every other accomplishment, all other ladies in the world; and if any knight or knights, shall be so hardy as to deny this, they are determined to support their assertions by deeds of arms, agreeable to the laws of ancient chivalry." The trumpets then sounded, and the herald returned to the knights, who rode by, saluted the dulcineas, and took their places on their left hand, about 100 yards distant. Then the crowd opened on the right, and a herald in orange color and black satin, ornamented with black roses, &c. and a piece of white satin thrown over his shoulders, on which was painted a burning mountain, rode up to the dulcineas and delivered the following message:—

"The knights of the Burning Mountain, by me their herald, declare that they will enter the lists with the knights of the Blended Rose, who, by their herald, proclaim that the ladies of the Blended Rose excel all others in wit, beauty and every other accomplishment; and if any knight or knights shall be so hardy, &c.—The knights of the Burning Mountain deny that the ladies of the Burning Mountain are surpassed by any other ladies in the world, in wit, beauty or any other accomplishment, and they are ready to support their declarations, by the force of arms, against the false and vain-glorious assertions of the knights of the Blended Rose." After delivering this message, he rode back to the knights of the Burning Mountain, who immediately appeared on the field; after riding by and saluting their dulcineas, they took their places on the right hand of them, about an hundred yards distant, and opposite to the knights of the Blended Rose.

The field-marshal then gave a signal, and the knights of the Burning Mountain and Blended Rose, with their chieftains and squires, rode up within 30 yards of each other; and the chieftain of the latter, throwing down a white glove, the chieftain of the former de-patched one of his squires for it, who returned with it to him. He then sent it back to the chieftain of the knights of the Blended Rose. Each squire then gave his knight the spear and shield, and, with him turning about, went to his former station. Upon the sounding of the trumpets, the knights rode in full speed by each other, throwing their spears as they passed. After a minutes pause, they passed again, firing a pistol at each other; and, after passing each other again, and firing a second pistol, they faced about and engaged in pairs for the space of a minute, and then returned to their places. The two chieftains then rode up by themselves, and engaged with their broad swords about two minutes; when the field-marshal rode in between them, declaring that the ladies of the Burning Mountain were equal in wit, beauty and every other accomplishment, to the ladies of the Blended Rose.

The chieftains parted, and returned to their knights, who rode round, and joining each other, came in pairs, preceded by their chieftains, &c. rode between the

two thrones, saluted the dulcineas, and passed through a triumphal arch, followed by the dulcineas and the rest of the company. This arch was elegantly painted with naval ornaments; at the top was a figure representing Neptune with his trident, and a ship; in the interior were the attributes of that God. On the two wings were plumes of feathers; and on the entablature was this motto, *Laus illi debetur*; and a *me Gratia Major*. In each side of the arch was placed a sailor, with his sword drawn. Having passed under the arch, we entered an avenue of 300 yards in length, and 35 in breadth, lined with troops, and decorated with the colors of the different regiments, planted at proper distances. Between these colors, the knights, with their attendants, ranged themselves; and between them, at equal distances, was disposed all the music of the army. We walked through this avenue to a second triumphal arch, of the Tuscan order, and of the same size as the former, elegantly painted. On the pediment was the figure of Fame, with her trumpet. In the interior was a plume of feathers and military trophies; and on the entablature, the following motto: *I bone quo te virtus vocat tua, I pede fusto*. In each side of this arch was a British grenadier under arms. Upon passing this second arch, we entered a beautiful flower garden, and passing up a gravel court, ascended a flight of steps, which conducted us into the house, at the door of which we were received by the Managers of the Meschianza, viz: Sir Jno. Wrottesley, Sir Henry Calder, Col. O'Hara and Col. Montresor.

#### *The Fete Champetre.*

Upon the opening of two folding doors, we entered a large Hall, in length about thirty, in breadth twenty feet, elegantly illuminated with spermaceti. The floor was covered with green baize. On each side of the Hall, were long tables with benches, covered also with green baize. Each of these tables was set off with a service of elegant china, and tea, coffee and various kinds of cakes. The ceiling and sides of the Hall were adorned with paintings, and on each side, were two large rooms ornamented in like manner. Over each chimney was painted a large cornucopia, full of flowers; and over each door an empty cornucopia inverted. As soon as tea and coffee were over, the knights, dulcineas, and most of the company, went up stairs, into a large entry elegantly painted, in which hung many mirrors, whose frames were covered with silk entwined and decorated with bows, roses, &c. Between each of these mirrors were three spermaceti candles in sconces, adorned with gauze, silk, &c. The rooms on each side of the entry, were ornamented in the same manner. Over the stair case was an orchestra, in which was a band of music. When the company was come up, the dulcineas danced first with the knights, and then with the squires; and after them the rest of the company danced. In several of the rooms were tables with punch, sangaree, wine, cakes, &c. At half after 10 o'clock, the windows were thrown open, and an elegant fire work was exhibited. Towards the conclusion, the triumphal arch, next to the house, appeared magnificently illuminated, and Fame blew from her trumpet, in letters of light, these words: *Tes Lauriers sont immortels*.

After the fire work, the company returned, some to dancing, and others to a faro bank, which was opened by three German officers, in one of the parlors. The company continued dancing and playing till 12 o'clock, when we were called to supper, and two folding doors, at the end of the Hall, being thrown open, we entered a room 200 feet long. The floor was covered with painted canvass; the roof and sides hung with paintings, and ornamented with fifty large mirrors. From the roof hung twelve lustres, with 20 spermaceti candles in each. In this room were two tables, reached from one end to the other. On each side were recesses, with sideboards, in which were all kinds of liquors. On the

two tables were 50 large elegant pyramids, with jellies, syllabubs, cakes and sweetmeats. The supper was entirely cold, except several tureens of soup; and consisted of chickens, lamb, buttered hams, Yorkshire pies, veal, variously prepared; puddings, &c. Twenty-four negro men attended the tables, in white shirts, with blue silk sashes, silk turbans, tin collars and bracelets. The company that sat down to supper were 400.

After supper the following toasts were given by the herald of the Knight of the Blended Rose, at the head of the table, after the sounding of a trumpet: 1st, God save the King

As soon as this toast was given out, the music began, and the whole company sang the song of *God Save the King*.

2d.—The queen and royal family.

3d.—The navy and army with their Commanders.

4th.—The Ladies of the Blended Rose and Burning Mountain.

The herald then cried this is the ladies toast, viz: 5th.—The founders of the feast.

After these toasts, the Hessians at the lower end of the table gave "God save the King, and success to his Majesty's Arms." A salute of music and three cheers graced each of these toasts.

All the ladies and gentlemen then rose and returned into the house to dance, except a party of gentlemen who remained at the table, determined to devote the rest of the night to Bacchus.

At day break, the company began to disperse, and at sun rise they were all gone, except Mr. F., myself and the party of gentlemen at the table, from whom as soon as we had taken Capt. T. W.—n, we threw ourselves into our coach and came home.

The chieftain of the Blended Rose was Lord Casheart, and the herald Dr. Bowman.

The chieftain of the Burning Mountain was Capt. Watson, and the herald Mr. Moore.

The ladies of the Blended Rose were Miss Auchmuty, Miss Peggy Chew, Miss Jenny Craig, Miss Williamina Bond, Miss Nancy White, and Miss Nancy Redman.

The ladies of the Burning Mountain, Miss Becky Franks, Miss Beely Bond, Miss Becky Redman, Miss Sally Chew, and Miss Williamina Smith.

From the National Gazette.

## UNION BENEVOLENT ASSOCIATION.

Third Annual Report of the Executive Board of the Union Benevolent Association.

OCTOBER 21, 1834.

The Executive Board of the Union Benevolent Association present to their constituents the record of their proceedings for the past year, together with a view of the present condition and future prospects of the Association; and although they have to lament the feeble and inadequate interest manifested in the Society, it is cheering to contemplate the good which has been effected, and retrospect cannot but strengthen confidence in the value of an institution, which though its usefulness is circumscribed by the smallness of its resources, has notwithstanding been able to accomplish so much for the relief of suffering humanity.

The object of the Association, and the means by which these objects are sought to be attained, have been fully developed in reports of preceding years, and it is therefore deemed unnecessary to enter into any detail of them on the present occasion. It is believed that the principles on which it was founded have received the unequivocal sanction of public approbation, and the Board can confidently appeal to the history of the Society, from its institution to the present period, for proof that those principles are correct in theory, and have been undeviatingly carried into execution.

The relief of present physical distress, however necessary it may be to open a way for the further operations of the Society, has ever been a subject of secondary consideration,—the grand principle of *permanently* meliorating the condition of the poor, has been steadily kept in view:—it has been endeavoured to awaken them to a sense of their actual condition—the causes which have involved them in poverty and misery, have been plainly but kindly unfolded to them—their baleful effects have been placed in strong contrast with the pleasing consequences attendant upon habits of rectitude and industry, and in many instances a successful appeal has been made to those moral principles, which, though they may long lie dormant beneath the chilling influence of penury, indolence and vice rarely lose their vitality so far, as to be incapable of being warmed into light and life, through the general operation of well directed benevolence.

In accordance with this principle, the Executive Board, at an early period of the present year, directed the publication of a tract entitled "*Advice to Persons in Humble Circumstances*," drawn up in language adapted to the capacities of those for whom it was intended, and containing suggestions relative to domestic economy, &c., which, obvious as they were, there was too much reason to fear, were unthought of by the majority of the poor. The salutary results which may flow from this measure are gradual and noiseless in their course, and do not admit of exact appreciation. It is hoped that counsel thus sanctioned by the authority of the Society, and enforced by the personal recommendation of the Visiting Committee, will not be unproductive of good.

Owing to circumstances which it is unnecessary to mention here, a greater number of persons were unable to find employment during the year past, than at any former period since the institution of the Society, and in consequence, there has been a greater demand for the aid which it was designed to furnish; unfortunately too, the demand was made at a time, when the association, from the scantiness of its revenue, was incapable of affording it, in any due degree, proportionate to the emergency; and in the absence of other means, the Board was compelled to borrow from the fund collected by the authority of the town meeting already diminished by repeated draughts, and since, entirely exhausted.

The fund thus collected had been entrusted to the Board, and was kept separate from the funds of the Association. It had been originally raised for a specific purpose, the *immediate* relief of the poor during a winter of unusual severity;—and the Board therefore, did not think themselves authorized to appropriate it to the ordinary uses of the society, but would have held it in reserve against the recurrence of an occasion, when it could be disbursed in strict conformity with the purpose for which it was first contributed. It was with regret that they found themselves compelled to have recourse to it at the present time; and in order to replace with as little delay as possible, the sum which they were thus obliged to borrow, the Managers formed themselves into committees, and notwithstanding that circumstances were unpropitious to such an application, made a personal appeal to their fellow citizens, in behalf of the society, enforced by a circular addressed to them on the part of the Board;—their appeal was not responded to, with the liberality which was anticipated; and had not the season been providentially mild in an unusual degree, visiting committees of the society would have been the unwilling witnesses of destitution and wretchedness which they had little power to remove or to alleviate.

A feature in our Society which should conciliate the favorable regard and patronage of the public, is, the large amount of positive good which it is capable of accomplishing with very limited means—a few hundred dollars, (exclusive of the annual expenses of the

Society,) being, in ordinary seasons, quite sufficient for all its purposes; donations of money cannot always be avoided, for sickness, accident, or misfortune, sometimes render them indispensable, but they are never carelessly bestowed, and in this view also, it will be found, that the Society opens a channel through which the charity of the public may flow, with the certainty that it will not be abused or misapplied—but it is by seeking to elevate the moral and intellectual character of the poor, by furnishing them with employment, by instructing them how to make their industry available, by holding forth the incentives to temperance and frugality, by fostering a spirit of independence, by animating them to perseverance in their exertions, by sympathizing with them in their afflictions, and by showing them that there are those who watch over, and care for them, that it desires to make its mild and cheering influence felt, and aims at the attainment of the benevolent purposes for which it was constituted.—Another pleasing circumstance not often noticed, may be adverted to here, and which, in the opinion of the Board, should endear the Society to all who take an interest in the welfare of their fellow men—the encouragement and assistance which it is not unfrequently enabled to extend to early and unassuming merit. It will rarely happen that there are not in every district, children, whose abilities, industry, desire of improvement, and modest worth, honorably distinguish them among their associates, and, under favorable circumstances, would make them useful members of society. In the obscurity in which they live, their good qualities would most probably bloom unnoticed, for

“This mournful truth is every where confessed—  
Slow rises worth by poverty depressed.”

Through the medium of the society they are brought into intercourse with, and become known to those who are capable of appreciating their excellence—whose advice, and kind encouragement, operate as a guide, and stimulus to exertion, and who not unfrequently have it in their power to place them in a situation more congenial to the growth and development of their good qualities.

But while the Society is thus strenuously engaged in endeavouring to promote the welfare of a large class of mankind, the Board are unable to repress the mingled emotions of grief, shame, and indignation with which they contemplate the *legalized* existence of a cause which threatens to counteract and neutralize all their efforts. The reports of the Ladies' Branch of the Association, upon which the duties of visiting and ministering to the poor chiefly devolves, and to whose untiring zeal and self-denying labours the Society is mainly indebted for all its efficiency, though earnest in the attestation which they give to the pervading and desolating influence of *intemperance*, are not so particular in the detail of facts as might have been desired,—abundant evidence however is presented to prove the appalling extent to which this demoralizing traffic is carried. In the *first, second, third, fourth, and twelfth* districts of the city proper alone, there are no fewer than *three hundred and seventy-four* places where ardent spirits are vended, either *lawfully* or otherwise! And while in most of the other sections, the proportion is probably not inferior, in some there is reason to believe that it is even much greater. In the report of the Ladies' Branch for the quarter ending January 21, 1834, they observe,—“Your Visitors have to lament the prevalence of intemperance—they know not how to attack successfully this frightful monster—they are compelled to leave helpless infancy, and interesting youth under the guardianship of parents rendered brutal by indulgence in this vice.” The attention of the different district committees was particularly directed to this subject by the Board in the early part of the year, and some questions were submitted as a guide to

their researches, and calculated to elicit information in regard to the prevalence of the evil. While the Board impressed with the importance of the subject, renew their invitation on the present occasion, and strongly urge the value of minute and accurate statistical detail, they refer with pleasure to the efforts which have been made, by the formation of Temperance Societies, and by the distribution of the Temperance Almanac, (which a resolution of the Ladies' Branch proposed to place in every family under their care) the growth of an evil, which while it has the sanction of *law*, they have found it quite impossible utterly to eradicate.

Some interesting cases are related, which afford reason to hope that a permanent reformation has been afforded, and the Board feel gratified in incorporating a few of them in their report.

“Mr. —, had for several years been in habits of confirmed intemperance—the entirely neglected his trade—reduced his family to the extreme of poverty—and several times brought himself to the brink of the grave. For the last three months after the visitor's introduction to this family, there was little hope of a favorable change. Their repeated remonstrances were answered by the acknowledgment that the habit was degrading, and the promise that he would do better,—which promise was kept for a week or two. At length, taking advantage of a sober moment, the visitors represented to him the consequences of the life he led, and appeal'd to him as to his sinfulness towards the Supreme Being; pressing upon him also his failures in duty towards his wife and children. He was affected, and consented to attend on public worship, if a decent suit of clothes could be procured for him. He became a regular attendant—resolved to *abstain entirely* from liquor—kept this resolution for three months; at the expiration of this period, through the co-operation of a male visitor of the association, he joined the Temperance Society, and consented to become a teacher in a colored Sabbath School. This last measure was proposed from the belief that the most certain way of confirming him in his good resolutions, was, to place him in a situation, where, finding he was useful and respected, he would respect himself. It is now *eighteen* months since he resolved to “taste not, handle not.” He is sober and industrious, cheerful and happy—making a comfortable living for his family—paying his rent in advance—laying up in the Fuel Saving Society a suitable provision for the winter. His attendance on the means of grace appears to have resulted in a new heart, which is the best guarantee for the permanence of the reformation in his habits—his labors in the Sabbath School are unremitting, and appear to interest him deeply—he has taught *eight* colored men to read.”

Another case is recorded of a man to whom a Temperance Almanac had been given. “The Drunkard's Family” made such an impression upon him that he has not tasted liquor for more than six months. A poor man, who had been committed for drunkenness, on his liberation had an Almanac presented to him—he read it—resolved to drink no more—joined the Temperance Society, and gladly put his name to the pledges.

It is cause of regret that instances of the kind just related, are not more numerous: but though in proportion to the magnitude of the evil, little, comparatively, has been done, it may be gratifying to know that your Board are awake to the importance of the subject, and will exert themselves to procure the repeal of a pernicious legislative enactment, and leave untried no means within their power which may contribute to the suppression of intemperance.

There is a reluctance on the part of the visiting committees to relate their own doings, which is regretted, inasmuch as it renders it exceedingly difficult, if not impossible to convey any adequate idea of what is accomplished; but notwithstanding the reports of the Ladies Central Board furnish ample testimony to the usefulness and efficiency of the Society—instances of

distress relieved, of vice reclaimed, of wretchedness mitigated, and only honest poverty guided and cheered along the path to comfort and independence, abound on every page. Several hundred children have been put to school,—others, placed at service,—many thousand visits to the families of the poor attest the active beneficence of that portion of the society upon whom this duty principally devolves;—Employment has been procured for many who were able and willing to work;—Money to a large amount has been deposited in the Fuel Saving, and Saving's Bank Institutions, and articles of wearing apparel, wood, groceries, medicines, &c. &c. have been furnished both from our own friends, and through the medium of other societies, whenever they have been deemed indispensably necessary.

The Board will not dissimble the pleasure with which it records the following interesting fact, extracted from the note book of one of the visitors. "It is about eight years since the individual whom the visitor calls 'her poor Irish Mary,' left Ireland—four years of that time was passed in Canada, where she lost her three children. Her husband, who was in declining health, returned to Ireland, and Mary came to Philadelphia. Three months ago, when she first applied to the visitor for assistance, she had a small basket with a few articles which she carried about for sale. The visitor administered to her wants, and after a few weeks insisted that the first five dollars she should make in her little trade, should be placed in the Saving Fund—this was done, and by being encouraged to persevere, in the same course, her store became considerable.—Last spring she received a letter from her husband, saying that his health was improved, and he was desirous of returning to America. Mary sent him fifty dollars, —and purchased furniture to make her room comfortable for him;—she had expended in clothing, &c. for him, thirty dollars, and has three hundred and fifty in the Saving Fund. She has induced her sister who is living at service, to lay by weekly, a small portion of her wages, and she has now ninety-four dollars in the Saving Fund."

This is but one, from among the many instances which might be adduced, of the beneficial effects resulting from the advice of the agency of the visiting committees;—their salutary influence has been manifested in a variety of ways, and their reports bear especial testimony to the good which has been accomplished by loaning small sums of money, to be repaid under happier circumstances,—in nearly every instance they have been punctually returned, with expressions of gratitude for evils averted, and for benefits which have been thereby conferred.

By a resolution adopted in the earlier part of the present year, the Executive Board placed at the disposal of the Ladies' Board the sum of 300 dollars, of which 258 dollars 75 cents have been expended;—leaving a balance of 41 dollars 25 cents in the treasury of that department.

The Board turn, with reluctance, from the interesting statement which they have been enabled to exhibit of the past usefulness and actual efficiency of the Society, to cast a glance over its future destinies, and regret that there is in the survey so little to animate and encourage. The state of the treasury will appear from the report herewith appended;—it is not only *exhausted*, but the Association is actually in debt;—the fund collected by the authority of the town meeting has been *expended*, and the Society has no resource but in the liberality of a public whose interest it is that it should be freely and generously sustained. No pains have been spared to make known the nature and object of the Association, and it was hoped that the common concern which all have in its prosperity, would have secured for it ample and permanent support;—that hope has proved fallacious, and the unwelcome truth must now be announced, that without *immediate* aid, it

can no longer be maintained in its present extended sphere of usefulness. It rests with our fellow citizens to determine whether they will indeed permit the abandonment of an institution whose principles, designs, and management are generally approved—which has been instrumental in doing a great amount of good, and which has failed to do much more, only because it has been suffered to struggle with means utterly inadequate to the full accomplishment of its benevolent purpose.

*President,*

Thomas C. James.

*Vice Presidents,*

Philip Garrett,

Charles S. Wurts.

*Treasurer,*

John Welsh, Jr.

*Corresponding Secretary,*

T. Leaming Smith.

*Recording Secretary,*

Charles E. Ilex.

*Executive Board.*

Wm. H. Keating

Anthony M. Buckley

Charles Evans, M. D.

J. Marshall Paul, M. D.

Wm. H. Newbold

Samuel Mason, jr.

George Earp

J. M. Whitall

S. Littell, M. D.

Benj. W. Tingley

George W. Forbes

Matthew Wilson

James S. Newbold

Benjamin Coates

Thomas Scattergood

John Cooper

Geo. H. Burgen, M. D.

Hugh Dixon

Jacob Thomas

Thomas W. Clark.

THE FRANKLIN INSTITUTE.

Extract from a Lecture on the means of Elevating the Character of the Working Classes, by Dr. J. K. Mitchell.

Every thing around us which relates to the advancement of the operative arts, is of an auspicious character. That is, indeed, amidst the existing tendency to the decline of literature amongst us, a subject of unfeigned exultation, because it is not possible that a general scientific movement on the part of the mechanics, should be unaccompanied by an improvement in the education of every other class of society. That part of society which has unfortunately been permitted to monopolize the classical distinctions, will not tamely see you transcend them in science, but entering on a very honorable and profitable competition, brighten themselves and stimulate you. This is the only warfare which should be conducted by various classes of society amongst us, and its end should be the triumphant success of all.

It is vain for one section of society, in our country at least, to envy another its superiority or its influence.—These follow knowledge and manners as naturally as the brightening of the face of the landscape does the rising of the morning sun of spring. By numbers, a set of educated men may be divested of power, or consequence, but it will only be to put another set of the very same kind in their places, and those who have made the change, if themselves uneducated, will not be benefited by the alteration. While society maintains the forms of orderly government, such is the case in all free communities. Monarchies and oligarchies present occasional exceptions, and sometimes during the reign of civil commotion, spirits, from the vast depths of ignorance, rise, through extraordinary force of character, to ephemeral exaltation. Sooner, or later, however, the natural tide of events flows on, and those best

qualified to guide the councils, and direct the destinies of society, will be found at the helm, through the spontaneous choice, too, of those who have not prepared *themselves* for the station. To obtain a share of power, to become eligible companions, welcome associates, to raise the credit of the class, and wipe off from it the involuntary stains brought from feudal times, and foreign countries, and to remove the badges of mental degradation, voluntarily assumed even here, the mechanics must not waste the time in unavailing regret and useless jealousies, but, buckling on the armour of learning, and seizing the sword of science, advance to the combat for an equal station, with that ardor which must conquer, and that knowledge which will make the victory honorable to themselves and glorious to the country—the whole country—and I was going to say nothing but the country. But no! no! that will be a victory auspicious to the world. So grand a spectacle is seldom seen in the universe. A whole community of mechanics, refined by literature, polished by good society, illuminated by philosophy, enjoying *all* the pleasures and honors of education, and carrying the arts irresistibly forward, to a degree of excellence of which the present age, with all its hurrying progression, sees but the beginning. That cause, once well begun, can have no limits but those of the world, no overthrow but that which must come to all things, when "*Time shall be no longer.*"

So truly honorable a result will throw back great reflective credit on the institutions in which originated the efforts for melioration; and among such institutions, none will probably, in our country, hold a higher rank than the *Franklin Institute of Pennsylvania*. It is but a very few years since a small number of individuals, most of them yet young, conceived the idea of affording, at a cheap rate, the sciences, to the working classes, and all others who might be unable to apply to more expensive places of learning. With almost incredible zeal, did they collect the funds, and erect on a lot purchased in a central situation, the noble edifice in which I have now the honor of addressing you. A Board of Managers was elected, a Committee of Instruction appointed; and the best teachers sought for and found.—Many of you must remember the zeal and skill with which Doctor Thomas P. Jones conducted the course of experimental philosophy, and practical mechanics, and with how much admirable science Professor Keating combined the power of throwing charms around the processes and the theories of chemistry. Professor Franklin Bache, who followed him, is yet agreeably remembered for his profound knowledge, exact method, and exemplary precision; for the efforts which he made to call your attention from the striking experiment to its connection with, and illustrative of, the great principles of the science. Of the deep research, and instructive course of my present fellow laborer, Professor Johnson, I could say much which would meet with a ready response from a class, which has acquired the title to estimate their merit, and unquestionably is inclined to fully appreciate their great desert. At the call of the government, Mr. Franklin Peale has gone abroad to examine and report on the processes pursued in the mints of other countries, and for the past season we have been deprived of his ingenious, amusing, and instructive lectures. But Doctor Emerson, and Mr. Millington, have filled up his evening by discourses at once improving to you, and most creditable to themselves.

It is not alone, however, to the lecture-room that the merit of the Franklin Institute is confined. Through the aid of the committee on publications, and the variety and extent of his own accomplishments, Dr. Jones is enabled to conduct, in the name of the institution, a *Journal* remarkably well calculated for the promotion of knowledge among mechanics, and the furtherance of the scientific reputation of the country. That *Journal* is not only read with advantage at home, but is often,

in the most flattering manner, quoted by the best scientific journals abroad. It has continued, for several years, an unwearied flight, and, as yet, has moulted no feather of its well-earned reputation. I need not fear reasonable contradiction when I say that no similar institution has sustained so long, and so well, an equal magazine.

In addition to these claims to public estimation, the Franklin Institute has conducted, and is now conducting, toilsome and very expensive experiments on some of the most important questions in practical science. With much labour, and great expense, experiments have been made on most of the requisites of water wheels and adjutages, so as to finally settle a point of great importance to every one who employs water power in the movement of machinery of any kind. The unfinished report of the committee on the subject, is a master-piece of its kind.

The investigation of, and report on, weights and measures, made by request of the House of Representatives of the State of Pennsylvania, adds a new claim, on the part of the institution, to public approbation, while the committee on steam explosions will soon put in another, of no inconsiderable weight, for an indefatigable, hazardous and expensive series of experiments, under the patronage of the government of the United States, most ingeniously diversified. A very great deal of the labor and skill applied to these investigations, has been bestowed by private members of the Institute, unpaid, and without any other motive than that of doing good to society.

I have made this exposition of the doings of the Franklin Institute, not for the vanity of the display, but for the sake of justice, and example. Our own citizens, perhaps even the members of the Institute, have not been fully aware of the extent, variety, and importance of its public services, nor acquainted with the honorable nature of its claim to the support and countenance of our community.

It might be supposed that I had now stated all the merits of the Institution; but when I look to the left, and see before me a large proportion of females, attentively engaged in receiving instruction, I cannot refrain from exulting in the prospect of great gain from their example, as well as their improvement. It has been said, and I believe most justly, that the character of the child is formed or deformed by the example and instruction of the mother. She is intrusted with the discipline of thought, at that critical period of life, when, through the flexibility of the mind, a bent is easily given to character, and the young ideas just begin to shoot. It is her care to protect the tender blossoms of thought and feeling, to prune rank luxuriance, encourage honorable sentiment, and kindle the love of labor, and the taste for learning. She should not be found often unable to satisfy the curiosity of her child; nor should his eager thirst after knowledge be destroyed by the oft repeated declaration of impatient ignorance. How many Newtons have been withered in the bud—how many Franklins consigned to obscurity by the presence and the influence of a mother, who, herself totally ignorant of the value of knowledge, feels no disposition to encourage in her child the love of science, or a taste for the arts!—Oh! if a mother in *ferling*, ought she not to long to brighten in the bosom of her child, a taste, which, while it will afford him many an hour of delightful recreation, and open to him an agreeable path to honorable distinction and public usefulness, will also shield him from the thousand snares of vice set for the idle, the ignorant, and the obscure. But more! many, very many of those who now hear me, pursue the creditable and useful profession of *teaching*, and are, like the honey-bee on his flowery embassy, abstracting the sweets of learning, to carry them home to a busy and eager school, to be again scattered far and wide, for the benefit of society. This is the compound interest of learning—the field which produces a thousand fold.

From the National Gazette.

# OBITUARY NOTICE.

Died, at New Harmony, State of Indiana, on the 10th ultimo, THOMAS SAY, the distinguished Naturalist, in the 47th year of his age.

In the death of this eminent individual, science has to deplore an irreparable loss: his family, in this city, and numerous friends and admirers throughout the civilized world, will long and sincerely mourn this painful dispensation.

We forbear, at present, to probe the tender sensibilities of his affectionate relatives to whom he was so justly endeared, by any reference to those social virtues which so eminently distinguished him, and which were so well calculated to endear him to all who had the happiness of cultivating his acquaintance.

A few words relative to the important services and extensive relations of this departed genius, is all that the present occasion calls for. With Mr. Say the ardent love of nature was an instinctive passion; some curious anecdotes of his early youth strongly illustrate this.

To a mind fully impressed with the glories of nature, to an ardent votary, in the temple of fame, the allurements of pleasure and the desire of wealth are equally indifferent;—his studious habits unfitted Mr. Say for mercantile pursuits, and he consequently failed in an occupation in which he early engaged, at the solicitation of a kind parent, the late highly respected Dr. Say. The Moloch of riches, was sacrificed on the shrine of Science. He subsequently devoted himself with an enthusiasm which can never be too much admired, and a resolution which no reverse of fortune could shake, to the study of his favorite sciences; with what success the republic of letters can testify—ask the Savans of Germany, of France, and of England, and they will with one accord thankfully acknowledge the discoveries due to his labors. It may indeed be fearlessly asserted that few individuals, certainly none in this country, have so extensively contributed to enlarge the boundaries of natural knowledge. To his native genius, supported by untiring zeal and indefatigable research, the Academy of Natural Science of Philadelphia is indebted for its opening reputation. Mr. S. was among the earliest members if not one of the founders of this institution.

His original communications to the Society alone, in the most abstruse and laborious departments of Zoology, Crustacea, Testacea, Insecta, &c. of the United States, occupy more than 800 printed pages of their Journal.—His essays published in the transactions of the American Philosophical Society, the Aonals of the Lyceum of Natural History of New York, in Silliman's Journal, &c. are equally respectable, perhaps equally numerous.—His contributions to the American Encyclopedia, though highly valuable, are not so generally known.—His separate work on American Entomology and another on Conchology have met with the approbation of the learned. With the brilliant results of his laborious exertions as Naturalist to the two celebrated expeditions by the authority of the United States Government, under command of Major, now Lt. Col. S. H. Long, the reading public is already familiar. Some years previously, he accompanied Mr. McClure, and other kindred spirits, on a scientific excursion, to the Floridas. The pages of the Academy's Journal, were subsequently enriched, by the fruits of this undertaking. These expeditions, with occasional excursions, made with similar views, in the vicinity of Philadelphia, constitute the only interruptions to a laborious course of studies, steadily and unostentatiously pursued in his native city, in which many departments of natural science were successfully cultivated and extensively enriched by his observations and discoveries.

In the year 1825 our devoted student consented, in an evil hour, to forego the society of his early friends,

the companions of his labors, and all the advantages of a large and populous city, and at the earnest instigation of his friend Mr. McClure, President of the Academy of Natural Sciences, he abandoned forever his native home. New Harmony, on the Wabash, State of Indiana, had now become the Land of Promise, where new views of the social compact and new institutions, literary and philosophical, were to be promulgated and tested. How soon those Utopian visions vanished in airy nothings the public is well informed. The principal agents in this Agrarian establishment are scattered to the four corners of the earth, whilst man, as usual, is hurried along to the consummation of his destiny. Considerable sums had been expended in landed property; this required the presence of a few confidential agents to protect it;—in this capacity Mr. Say consented to fix his permanent residence at New Harmony, at the request of Mr. Wm. McClure, who in firm state of health obliged him to seek a more genial clime. Mr. S. soon after his arrival in N. H. wedded a lady of congenial habits, and appears to have become reconciled to his new domicile: mere locality was, to a considerable degree, matter of indifference to a naturalist, so long as he found himself surrounded in rich profusion with the objects of his research, supplied as he was, by the liberality of his patron, with a valuable library.

Our much lamented friend had recently devoted much of his time to the publication of his work on American Conchology, elucidated by expensive plates. He might have continued thus usefully employed for many years, had not the climate on the Wabash proved injurious to his health; he repeatedly suffered from attacks of fever and dysenteric affections, by which a constitution, originally robust and inured to hardships, materially suffered. A letter announcing the sad catastrophe which deprived society of one of its worthiest members and science of one of its brightest ornaments, informs us that Mr. S. suffered another attack of a disorder similar to that by which his constitution had already been shattered, about the first of October: on the 8th the hopes of his friends were flattered by a deceitful calm; on the day following these hopes were chilled, he appeared sinking under debility, when on the 10th death came over him like a summer cloud—he met the embrace as the weary traveller falls into the arms of restoring sleep. Intellect triumphed to the last hour. He died intestate and without issue, but left with his wife verbal directions relative to the final dispositions of his Library and Cabinet of Natural History.

H.

## MR. MILLS' ASCENSION FROM LANCASTER.

To the Editor of the United States Gazette.

PHILADA. Sunday afternoon.

Sir:—In conformity with the desire of some friends in Lancaster, I made, on Saturday, the 1st of Nov. an ascension from that place.

Half an hour before the specified time, I had my balloon completely inflated; and as the spectators were already on the ground, I set off six minutes before three, P. M. although I had announced my intention of going at three.

At that time, the thermometer indicated a temperature of 54°, and the barometer stood at 26° 8. The wind nearly due east, was light and irregular. My course was at first westward, so that I passed immediately over Lancaster, when a change of current took me several miles in a north westward direction. As I did not rise high, I could distinctly hear the sound of the horses hoofs, as their riders pursued me. My elevation at that time, was 27° 5, and the temperature 44°.

A new and higher current of air from the north and west, soon drove me back towards Lancaster; which as

I passed, it appeared to be half a mile or less to the westward of my course. I could see the assemblage in the inclosure in which I had left them, but I was out of hearing of their salutations. My elevation at this time, was about 24° 5'; or, very nearly a mile above the earth. At this time, I could see a vast expanse of beautiful country, and among other objects, recognized the Susquehanna, and its bridge, at Columbia.

Soon after leaving Lancaster for the second time, I entered and passed through the clouds, which though thick enough to conceal the earth from view, did not seem to be more than 20 or 30 yards in thickness.—Emerging from this stratum, I suddenly found myself in a bright sunshine, with a vast field of white opake vapours below me, convoluted into singular forms, and presenting a variety of elevations and cavernous depressions.

I continued above the clouds for nearly an hour, and during that time saw the earth only three times, and then but for a moment, as the rolling clouds beneath happened to break their well preserved continuity.

As I fell below the clouds, I was surprised to see a beautiful river, full of boats and vessels, and to find myself, almost immediately over a small town, on its margin, while I saw another of greater size, at a little distance inland. After some reflection, I felt sure that it was not either the Susquehanna or the Chesapeake, but it never entered my head to suppose that I could have travelled so far as to have reached the banks of the Delaware, at New Castle, and that the beautiful city of Wilmington lay in sight, to the north of my position.

Attempting to descend here, to avoid crossing the river, I encountered the eastern current, with which I had started at Lancaster, and was carried by it across the State of Delaware. I, at 5 P. M. precisely touched the earth, near Cooch's Mills, three miles from Elkton.

As I passed over a house near this place, some white people hailed me, "who are you," I replied by asking "where am I," to which they answered "go back where you came from." I soon after let go my anchor, near to the turnpike, and fortunately it laid hold of a fence, when I called to two black men to come to my assistance, which at first they declined, without giving me any answer in words. After repeated solicitations, they were induced to approach, and drawing down the balloon, brought me to the ground.

Soon afterwards, I was joined by a party on horseback, from Elkton, who taking hold of the anchor rope, as I sat in the car, carried me, sailing through the air, along the turnpike, to Elkton, a distance of 3 miles, where at half past 6, I arrived in safety discharged the gas, folded the balloon, and at 7, had finished the folding and securing the balloon, car, &c.

As we passed along the turnpike, the intervention of trees sometimes, made the road too narrow for the passage of the balloon, which was then, by lengthening the cable, elevated above them, and brought over their tops.

This morning I went to Frenchtown, and by rail road and stagecoach reached Philadelphia at 5 P. M.

It is not easy to tell the exact distance traversed during the two hours and six minutes passed in the air, but it is probable, that it was not less than *one hundred miles*.

In descending, I adopted a simple plan of estimating the force and direction of the current beneath me. A feather of sufficient size to be visible at a distance, loaded in such a manner as to fall slowly, floats along with the balloon and its current, until it enters another atmospheric movement, when it is seen to take the new direction. The aeronaut may thus be guided to a choice of current before he enters it. In ascending, the same kind of knowledge may be had by letting off

very small balloons prepared for the purpose, and carried up in the car.

I cannot conclude, without expressing my thanks to the friends at Lancaster, who gave me countenance and assistance, and to the good people of Elkton, who did every thing in their power to promote my comfort and convenience.

The annexed table, will show the various altitudes, and their corresponding temperatures. I should have noted the time of entering the clouds, and their exact elevation, but I was so completely absorbed by the beauty and variety of the phenomena, that I entirely forgot to make at that time, the necessary observations.

I am, very respectfully, yours &c.

JAMES MILLS.

Time.	Barometer.	Thermometer.	
2 54	29 8	54	W.
3 5	27 5	44	N. W.
3 15	25 0	46	N.
3 20	22 2	34	E. N. E.
3 30	20 4	32	S. E. by S.
4 0	19 9	31½	

## PHILADELPHIA AND TRENTON RAIL ROAD.

We learn that a partial trial of the Philadelphia and Trenton Rail road, was made on Saturday, October 25, with a Locomotive Engine constructed by Mr. Baldwin. The distance from Kensington to Morrisville, twenty-six miles, was performed in 55 minutes; returning the distance was accomplished in 46 minutes. The engine being new, and imperfectly greased, of course did not perform to the utmost of its capacity, and yet one distance of 5 miles was performed in 6 minutes.

As this road is *level and straight*, speed and safety may be combined upon it in the highest degree. There appears to be no doubt that with a single Engine, 300 passengers can be conveyed over the line in one hour, without the least inconvenience or risk.

It is understood that within a few days the rail road will be formally opened for public use, and a regular line of transportation established upon it.—*Commercial Herald*.

This road was opened on Saturday, Nov. 1, the whole distance, twenty eight miles. We passed over it in company with a number of citizens, among them several of the commissioners of Kensington, several of the members of the New Jersey legislature, and several members of the editorial corps of Philadelphia. Governor Vroom was a passenger from Trenton to Bristol. The road commences within a stone's throw of Kensington, and passes over a most delightful country, immediately in the vicinity of the Delaware, of which an almost constant view is afforded on the one side; while on the other, at this season of the year, the husbandman may be descried "binding the corn" or ploughing his fields, and the country for miles in the distance, variegated with well provided farms, country seats, flocks of cattle, and various vehicles passing the road in the immediate vicinity. This rail road is perhaps the most level and direct of any in this country. There is not a "deep cut" from the beginning to the end of it, and a splendid prospect for miles is continually before the eye of the spectator. We left Philadelphia at five minutes after ten o'clock, A. M., and arrived at Trenton long before twelve, *the whole distance being travelled in an hour and a half, including four stoppages*. We returned in about the same space of time, thus travelling, both going and returning, 28 miles in ninety minutes, or at the rate of about twenty miles per hour. The road may be travelled at this rate with perfect ease and comfort, and less jolting than is experienced in passing over the best paved streets in

Philadelphia in an omnibus. We are assured that there is not the slightest danger in progressing at this speed, and we should suppose there was not from the experiment of Saturday, as not the slightest apprehension was felt by any of the passengers, but on the contrary, all seemed satisfied and gratified. We look upon the opening of this road as a matter in which every citizen of Philadelphia, New Jersey, and New York, and indeed every traveller, should take an interest. It is an important link of the great chain which will soon connect Boston with Washington, and sooner New York with Philadelphia, by a continuous rail road. But one section of the latter route remains to be completed, that between New Brunswick and Trenton, and this section will be commenced immediately after the action of the New Jersey legislature in relation to it. We have not a doubt but a favorable decision will be immediately obtained, as there is no state in the Union more decidedly adverse to monopolies than New Jersey; and as nine tenths of the citizens of that state, without distinction of party, are favourable to the chain of internal improvement alluded to. The road is in fact a measure of the democracy, and intended for the benefit of the people at large; and although we are politically opposed to the majority of the legislature of New Jersey, we trust that our friends in that state will be able to co-operate with them in this measure at least, and thus contribute to the general weal by increasing and cheapening the facilities for travellers. We may add, that when the whole route of this road between New York and Philadelphia is finished, passengers may with perfect ease pass between the two cities in five hours—may breakfast at seven in New York, dine at one in Philadelphia, and sup at seven again in New York. The road between Philadelphia and Trenton will open to-day for regular travelling. Two lines of cars will run daily; the first starting from Trenton at half past seven, A. M., and Morrisville at 8, with horses—the second from Trenton at 2 o'clock, P. M., and Morrisville at half past two, with locomotive. The first line from Philadelphia will leave at half past 8, A. M. with locomotive, and the second line at two, P. M. with horses. We are glad to learn that Aim's commodious omnibuses have been engaged to carry passengers to the depot, near Kensington. This road cannot fail. It is the interest of every traveller to encourage it, and it will be encouraged.—*Inquirer*.

#### PROCEEDINGS OF COUNCILS.

The Select and Common Councils held a joint meeting, and re-elected the following gentlemen as Inspectors of the public prisons:

THOMAS HARPER,  
JAMES HUTCHINSON,  
TOBIAS HUBER.

#### IN COMMON COUNCIL.

Mr. Yarrall presented the following communication, which was referred to the committee on Lighting and Watching:

*To the Select and Common Councils of the City of Philadelphia.*

Gentlemen:—The subscribers respectfully represent, that they are largely engaged in the manufacture of Spermin Oil and Candles, and that they are desirous of supplying the City. For several years, Thomas M. Coffin, (of this firm) had the contract, by which he agreed to deliver oil to the watchmen, in such quantities and at such times as it might be required, by which a saving was made to the city of several thousand dollars, in leakage, interest, labor, rents, &c. and furnished to the contractor, a sure market for an article of his manufacture. An offer having been made to supply the city (in large quantities,) at a trifle less per gallon than T. M. Coffin was willing to furnish it, his proposal

was rejected. The subscribers respectfully request, that you will appoint a committee to take the subject into consideration, to whom they can more fully express their views, than would be proper at the present time.

COFFIN & LANDELL.

PHILADELPHIA, NOV. 3, 1834.

*U. S. Gazette.*

**STEAM ENGINES IN SCHUYLKILL COUNTY.**—Six Steam Engines have been introduced within the last two years into this region, all of which are in full operation. In these Engines Anthracite coal is exclusively used as a fuel. Five of these Engines are stationary, and the sixth is a Locomotive Engine employed on the Little Schuylkill Rail Road. Anthracite Coal is also exclusively used as a fuel on the Baltimore and Ohio and Philadelphia and Germantown Rail Roads. A practical Engineer of this region, who has had experience in this line in England, informs us that Anthracite is preferable to Bituminous for this purpose, inasmuch as it affords a more regular and constant heat. The Bituminous species consumes itself rapidly, and hence the difficulty of keeping up a heat of uniform temperature. Now that the several markets on the seaboard are so abundantly supplied with this fuel, and the fact is so notorious that this and other regions are capable of supplying any quantity that may be required, it is a matter of surprise to us that our steamboats do not make preparations for using it. The adaptation of this fuel to steamboats and the superior advantages to be derived from its use, have been sufficiently established by actual experiment. What then remains to hinder its immediate introduction? The competition which already exists among the several regions, is a full security against exorbitant prices, and there can surely be no doubts entertained of the ability of these regions to keep up large stocks in the several markets. A dislike to innovation is, we know, a principle deeply implanted in human nature—and even when the advantages resulting from such innovation are apparent, it frequently happens that the principle triumphs. This is the only way in which we can account for the great delay which attends the introduction of Anthracite as a fuel into steamboats.—*Miners' Journal*.

#### PENNSYLVANIA AND OHIO CANAL.

##### *Meeting of Canal Commissioners.*

The Commissioners for constructing the Cross Cut Canal, to connect the Pennsylvania and Ohio Canals, from near the mouth of Mahoning, to the Portage Summit, are requested to meet at the house of Samuel McClure, in the town of Beaver, on Friday the 21st day of November next, at 10 o'clock, A. M. A general attendance of the Board is particularly requested.

A. LACOCK, Pres't.

Beaver, Oct. 30, 1834.

The following gentlemen constitute the Board of Commissioners, viz:

Abner Lacock, Stephen Stone, John Dickey, Robert Darragh, and Thomas Henry, of Beaver; Charles Shaller, and Hugh Davis, of Allegheny; Benjamin Chew, of Philadelphia; Joseph T. Boyd, and John Fisher, of Mercer; Leicester King, and William Rayen, of Trumbull; Jonathan Shone, Eliakim Crosby, of Portage; Wm. Ayres, and Jacob Mechling, of Butler.—*Beaver Argus*.

From the Beaver Argus.

#### STEAM BOAT FACILITIES, &c.

To the travelling public, who have occasion to pass between Pittsburg and Economy, Beaver, Wellsville, Steubenville, or Wheeling; it will be gratifying to

learn, that there are four regular daily boats now plying between Pittsburg and the towns above mentioned, besides those between Wellsville, Steubenville, and Wheeling.

The well known, rapid little *Steam Boat Beaver*, with her keel boat progeny, A. B. C.; and the new, splendid, light draught, stern wheel *Steamer Wellsville*, and her A. B. C. family, present to the public, facilities deserving of liberal encouragement, which, we are happy to learn, is now enjoyed by them.

The following is understood to be the arrangement for these boats, viz: Leave Pittsburg and Wellsville, every morning at 8 or 9 o'clock; each steam boat having a keel boat in tow: touch at Beaver Point (the mouth of Big Beaver) about 12 o'clock, to land and receive passengers, way freight, &c. and then through to Pittsburg, and Wellsville, the same evening. To save delay, and the trouble of ware-housing, each boat, while she has a keel by her side, loaded with freight, will have others, discharging and receiving goods, &c. at Pittsburg, Wellsville, and Beaver, where Clerks are in constant attendance for that purpose.

By this arrangement, these boats, though not large, are rendered as pleasant for passengers as any others on the river; and while those in the vicinity will not fail to profit by such improvements, it is believed that hundreds, who journey beyond these limits, will relieve the tedium of a stage, by 30, 50, 70, or 100 miles upon these boats, and then diverge from the river, through various stage routes, from the places above mentioned—or pursue their course, as the case may be, by large boats, down the river, &c.

We also perceive, by a late bill, that this line is connected with the transportation lines from Philadelphia to Pittsburg, and with the Canal boats, upon the Beaver Canal, now navigable to New Castle; and we cannot doubt that this will soon become an important thoroughfare between Pittsburg and the Lakes, as it will afford variety, without loss of time.

Besides the two boats already named, the *New Castle*, a new and beautiful boat, plies daily between Pittsburg and Beaver; and the *Enterprise* between Pittsburg and Wellsville—they both tow keel boats of their own; but as to other particulars, we are ignorant.

A PASSENGER.

From Poulson's American Daily Advertiser, Nov. 1.

RAIN.—Quantity of rain which has fallen in each month of the present year.

1st month,	2.49 inches.
2d do	2.22 do
3d do	2.02 do
4th do	2.83 do
5th do	3.52 do
6th do	3.99 do
7th do	4.35 do
8th do	0.62 do
9th do	3.57 do
10th do	3.29 do

Pennsylvania Hospital, 11th mo. 1st, 1834.

#### PUBLIC MEETING.

At an adjourned meeting of citizens held at the County Court House, on the evening of the 27th ult. to take into consideration the most proper means of affording relief to James Robb and others, for losses sustained by the destruction of their property, on the night of the general election.

On motion of Jacob F. Hoeckley, Esq. supported by the Hon. James Harper, and John Swift, Esq. it was

Resolved, That in the opinion of this meeting, the damage sustained by James Robb, and others in consequence of the conflagration in Moyamensing, on the evening of the 14th October, by which five houses, the property of James Robb, together with the furniture of the occupants, were entirely consumed, should be

re-imbursed by the voluntary contribution of the citizens of the City and County of Philadelphia.

Resolved, That a committee of six persons in each ward of the city and Districts of Philadelphia, be appointed to make collections for the relief of the sufferers aforesaid.

Resolved, That a committee of five persons be appointed to inquire who are the sufferers, and the amount of loss which they have individually sustained, and also to receive from the Treasurer the funds thus collected, and to distribute the same among the sufferers, in proportion to their respective losses.

The following gentlemen were thereupon appointed.—John Swift, Benj. Duncan, Isaac Elliott, Bela Badger, and D. Henry Fickwir.

Charles Robb was appointed Treasurer.

Resolved, That the Chairman and Secretary have power to fill all vacancies which may occur in the above Committees.

BENJ. DUNCAN, Chairman.

ISAAC ELLIOTT, Sec'y.

#### FOUNDRIES, ENGINE FACTORIES, &c.

There are, in the city of Pittsburg, sixteen "Foundries and Engine Factories" of the largest denomination, besides numerous other establishments of less magnitude.

There are nine "Rolling Mills," cutting 2 tons of Nails and rolling 8 tons of Iron per day, on the average, and employing from 70 to 90 hands each.

There are six "Cotton Factories," with an aggregate of 20,000 spindles, 116 power looms, and 770 hands.

Six extensive "White-lead Factories,"

Five extensive "Breweries," besides smaller ones.

Six "Steam Saw Mills."

Four "Steam Grist Mills."

Ten extensive "Glass Works."

Upwards of one hundred steam engines in full operation.

There are, moreover, innumerable establishments for the manufacture of Ploughs, Timber Wheels, Screws of all kinds, Saddle-trees, Machine Cards, Bells, Brass Work of every description, Locks, &c. all manufactured extensively for exportation.—*Pitts. Adv.*

#### THE HEALTH OF THE CITY.

When an epidemic of a most destructive character is destroying its thousands all around us, and encompassing us about, there are so many anxieties and apprehensions abroad, and the fears of the timid incline them, unconsciously, to magnify and misrepresent, we think it cannot but give confidence if we appeal to the evidence of facts, drawing our information from authentic records. The following is a correct exhibit of the deaths in this city and vicinity, as they have been reported and published by the Board of Health, for the last ten years, in that week, in the month of September, which most nearly embraces the days which were included in the last week.

		DEATHS.
1825 from Sept. the 10th to 17		86
1826	9 16	95
1827	8 15	77
1828	6 13	99
1829	5 12	94
1830	4 11	94
1831	10 17	108
1832	8 15	124
1833	7 14	83
1834	6 13	95

A slight examination of this table will show that, notwithstanding our very great increase of population, that the deaths last week, are rather fewer in number than the average of the last ten years.—*Commercial Intel.*

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 20. PHILADELPHIA, NOVEMBER 15, 1834. NO. 358.

## RIGHTS OF UNINCORPORATED SOCIETIES.

*The Opinion of the Circuit Court of the United States, in and for the Eastern District of Pennsylvania, on the Will of SARAH ZANE, a member of the Society of Friends.—April term, 1833.*

(Published by request.)

I, SARAH ZANE, of the city of Philadelphia, single woman, through the tender mercies of my Heavenly Father, being of sound disposing mind and memory, and in health of body, do make this my last Will and Testament, in manner and form following, that is to say:—

1st. I will and direct that all my just debts and funeral expenses be paid as soon after my decease as is convenient.

2d. I devise and bequeath unto my nephew John, son of my late brother John Zane, the income or rent of fifteen acres of meadow land, with the barn thereon, in the township of Moyamensing, in the county of Philadelphia, situate on the east side of the road leading from the said city to Greenwich Point or ferry, adjoining land belonging to the Hamilton estate. The above said land running to low water mark and Delaware river. Also, two-thirds my part of a house in Biddle's Alley, between Second and Third, near High street, Philadelphia. Also, two-thirds of a ground rent of six pounds per annum, on Mulberry, between Seventh and Eighth streets, Philadelphia, at present occupied by Joseph Ely; with the yearly benefits arising from the cultivation of six hundred acres of land, situate and bounded by Grove creek, near Wheeling, in the state of Virginia—part of the same tract belonging to my honoured father near forty years. All the above described property I give to my nephew John Zane, in trust, with the injunction of keeping the buildings aforesaid and land in best order, out of rents issuing therefrom; the residue of said annual rents to be applied towards the real useful education of his children, viz. Hannah, Mary, Isaac, Sarah, Anthony, and John, until the youngest of the aforesaid children arrive to twenty one years of age, then the above said real property to be divided equally between his sons Isaac Zane, Anthony Zane, and John Zane, and their heirs.

3d. I give to Maria Antonietta Zane, wife of my said nephew John Zane, the sum of one thousand dollars, to be paid her in three years after my decease.

4th. I will that the said Maria Antonietta Zane take into her care the furniture of my best chamber, with a silver salver, marked H. Z. in trust for her daughter Hannah Zane, until she obtains to eighteen years of age.

5th. I will in like manner that the said Maria Antonietta Zane take into her care the furniture of the chamber I lodge in, and all my plate marked S. Z. with my chased gold watch, for her daughter Sarah Zane, until she is of age.

6th. I will that Maria Antonietta Zane take into her charge for her daughter Mary, all the furniture in my front parlour, also all the furniture in my back parlour, except the clock made by David Rittenhouse, and extra large white walnut dining-table, which was my dear father's; also a silver pint can, without mark, and a

silver soup ladle, to be given her when she attains to eighteen years of age.

7th. I give to my executor the sum of three thousand dollars for the purchase of a ground rent, or three equal good ground rents, clear of taxes and incumbrances, in the incorporated part of the city of Philadelphia; I will and direct my executors to secure the above said three ground rents, with the interests or rents arising therefrom, until Sarah Zane, the daughter of my aforesaid nephew John Zane, attains to twenty-one years of age, then the above three thousand dollars principal, with the interest thereon, to be paid equally to my above said nieces, Sarah Zane, one thousand dollars with the interest thereon; to her sister Hannah Zane, one thousand dollars, with the interest thereon; to her sister Mary Zane, one thousand dollars, with the interest thereon, all daughters of my nephew John Zane.

8th. I give to Sarah, sister of my nephew John Zane, and daughter to my late brother John Zane, to be paid her in current coin of the United States, one thousand dollars in three years after my decease; also a complete set of tea China, and an old-fashioned silver tea-kettle.

9th. I give to the yearly meeting of Friends held in Philadelphia, of which I am a member, eight acres of meadow land, situate on Greenwich point road, being part of thirty acres belonging to my dear father, with the flats thereunto belonging, to be kept by the yearly meeting aforesaid for the purpose of a fund, the income of which, after keeping it in good order, to be paid as an annual subscription into the yearly meeting's stock.

10th. I give most affectionately to the five monthly meetings of woman Friends, held in Philadelphia, viz: Philadelphia Monthly Meeting, Monthly Meeting of the North District, Monthly Meeting for the Southern District, Monthly Meeting for the Western District, and Green street Monthly Meeting—to each of the above said monthly meetings two hundred dollars, making in the whole one thousand dollars, to purchase ground rents; the income whereof I request to be received annually in the monthly meetings' collections towards the relief of the poor members belonging thereto.

11th. Whereas about the year seventeen hundred and fifty-nine, Captain Newcastle, an Indian chief or messenger, ordered thirty pounds, Pennsylvania currency, to be paid to my dear father, for the use of his two cousins, a boy and a girl. The boy soon after died. The girl, named Betty, received a part of the above thirty pounds at different times, by Thomas King, an Indian chief; but as no information could be obtained of said Betty for forty years; and the residue of the thirty pounds now in my possession, I am desirous that the full sum of thirty pounds principal, with the interest from the year seventeen hundred and fifty-nine until the time it is paid, which I desire to be in faithful hands; therefore I will and direct my executor to pay to the treasurer of the committee of the Yearly Meeting of Friends held in Philadelphia, appointed to relieve the Indians, for the benefit of said Indians, according to their best judgment in justice and equity.

12th. I give to my executors a legacy or sum of three

hundred dollars, to be paid by them to the treasurer of the committee of the Yearly Meeting of Friends, held in Philadelphia, appointed to relieve the Indians, to the benefit of said Indians.

13th. I give to my kinswoman *Sarah Pancoast*, widow of David Pancoast, in Alexandria, Virginia, five hundred dollars, to be paid to her in six months after my decease.

14th. I give to my friend *Mary Pleasants*, widow of Samuel Pleasants, six silver table spoons, marked I. H. P. also the sum of five hundred dollars, to be paid her within six months after my decease.

15th. I give to my friend *Sarah Pemberton* a silver coffee-pot.

16th. To her niece *Hannah Parke*, in like manner, two silver saucers, six silver desert spoons, marked I. R. P. and two extra large fine damask table cloths, with six napkins to match them, six in number.

17th. I give to my executors the sum of one thousand dollars, to pay to the treasurer of the committee appointed by the Yearly Meeting of Friends, held in Baltimore, for the transactions of the relief and benefit of the Indians that the said Yearly Meeting, with the Yearly Meeting of Friends, held at Mount Pleasant, in the state of Ohio, hath under their care, toward civilization, having the tribe of Tuscaroras first in view, if to be found within two years.

18th. I give affectionately to Friends composing the Baltimore Yearly Meeting, five hundred dollars, to be realized in that city, so that the interest or income thereof be annually paid into their collection, toward their yearly meeting stock, if one exists; if not, I will, if it be the mind of Friends belonging thereto, the encouragement to establish one.

19th. I give affectionately to Friends composing the Yearly Meeting held at Mount Pleasant, state of Ohio, five hundred dollars, to be realized so that the interest or income thereof be annually paid into their collection toward their yearly meeting stock, if one exists; if not, I will, if it is the mind, and agreeable to the Friends belonging thereto, the encouragement to establish one.

20th. I give to the select members belonging to the monthly meeting of woman Friends, held at Hopewell, Frederick county, Virginia, five hundred dollars, to be realized in the town of Winchester, in the same county, the interest or income issuing therefrom to be annually paid into the treasury of the above said monthly meeting's stock, towards the relief of the poor belonging thereto.

21st. I give to my dear friends composing Centre Preparative Meeting, belonging to Hopewell Monthly Meeting, the sum of five hundred dollars towards enlarging Friends' monthly meeting house in Winchester, if that meeting think it expedient, and to assist building a stone wall, so as to enclose the whole lot whereon the said meeting house is erected.

22d. I give to the citizens of Winchester above said, one thousand dollars to purchase a fire-engine and hose, to be kept in best repair, with my affection and gratitude.

23d. I give to my much respected friend *Charles Magill*, of Winchester, Virginia, my large silver tankard, in remembrance of his friendship, with one thousand dollars in specie, under a grateful sense of the kind accommodations in his office for books.

24th. I give to my very dear friend *Mary Buckner Magill*, wife of *Charles Magill*, one hundred eagles in gold coin currency of the United States, equal to one thousand dollars, in most grateful and affectionate remembrance of the sincere and firm friendship that has subsisted between us for a number of years.

25th. I give to my executors five hundred dollars to purchase ground rents, clear of incumbrances, in the city of Philadelphia, as an affectionate token to *Sarah Z. Mills*, daughter of *Robert and Eliza Mills*, of Baltimore;—the above said ground rent of five hundred, with the interest arising therefrom, to be conveyed and

paid to the aforesaid *Sarah Z. Mills* when she attains to twenty-one years of age.

26th. I give to my executors three hundred dollars to purchase a good ground rent, clear of taxes, in the city of Philadelphia, to be secured in the hands of *Doctor Edwin Atlee*, for his daughter *Sarah Z. Atlee*, until she obtains to twenty-one years of age, when the ground rent, with the income, to be delivered to the said *Sarah Z. Atlee*.

27th. I give to the Pennsylvania Hospital my clock, made by *David Rittenhouse*, now standing in my back parlour. Also an extra large white walnut dining table, which was my dear father's (it is eighty years old,) with the looking-glass that hangs above it, with a large concave mirror; and a set of five quarto volumes of Ancient Philosophical Translations, and the monthly Review, in twenty-five volumes, to the year 1735. I give to the Managers of the Pennsylvania Hospital five hundred dollars, as a fund, the interest of which I will and direct annually to be appropriated as a premium to such patients as, when discharged, shall merit for good conduct, the approbation of the Managers of that Institution, and by them to be applied as a reward for good behaviour.

28th. I give to my friends *Dr. Samuel P. Griffiths*, *Dr. John W. Moore*, and *Dr. Joseph Parish*, six hundred dollars for the dispensaries, that is to say, to the Philadelphia Dispensary two hundred dollars, to the Dispensary in the Northern Liberties two hundred dollars, to the Dispensary in Southwark two hundred dollars.

29th. I give to my friends *Goldsmith Chandlee*, *Samuel S. Wayne*, and *Samuel Brown*, five hundred dollars, to be realized in such manner as their best judgment dictate, so that an interest may be obtained towards the support, should it be necessary, of *Venus and Daniel*, two people of color emancipated by me from the Marlboro estate, in the year 1796, Frederick county, Virginia.

30th. I give to my executors three hundred dollars to be invested in the saving bank or life annuities, for the use of those domestics who are in my service, and been so six months preceding my decease; each of them to have a bed and sufficient bedding and bedsteads.

31st. Whereas the heir of the late *Elizabeth Roberts*, daughter of *Joseph Galloway*, formerly of Philadelphia, hath deposited a bond of one hundred pounds, Pennsylvania currency, in the hands of *Wm. Rawle* and *Joseph Jenks*, agents for the estate of *Elizabeth Roberts'* daughter, now in Great Britain. I believing the above said bond to be given by my brother *Isaac Zane*, of Virginia, a number of years since—the bond for many years out of reach. The interest hath not, that it appears, been paid. I will and direct my executors to pay the said one hundred pounds principal, and the legal interest thereon from the day of its date till paid in full.

32d. The residue of my estate I give and bequeath to my late brother *John Zane's* son *John Zane*, for children, viz. *Hannah Zane*, *Mary Zane*, *Isaac Zane*, *Sarah Zane*, *Anthony Zane*, and *John Zane*, share and share alike, when the youngest arrives at twenty-one years of age; their father, *John Zane*, receiving and applying the interest thereof for their useful education.

Lastly. I do nominate and appoint my respected friends *Samuel Coates* and \_\_\_\_\_, of Philadelphia, and *Jacob Rinker*, of Virginia, executors of this my last will and Testament; giving them, my above named executors, full power to sell by private sale my house in Chestnut street, to meet the payments herein directed; and if that be insufficient, to sell *Marlboro Estate*, in Virginia, belonging to my late brother *Isaac Zane*: hereby revoking all former and other wills by me heretofore made, and declaring this to be my last will and testament. In witness whereof, I hereunto set my

hand and affix my seal in Philadelphia, this 24th day of the third month, in the year of our Lord one thousand eight hundred and nineteen.

SARAH ZANE. (SEAL.)

MAGILL AND OTHERS

BROWN.

} Opinion of the Court delivered by Mr. Justice BALDWIN.

This case arises on the will of Sarah Zane, a member of the Society of Friends, who in the body thereof, describes herself as of the city of Philadelphia: she died in Virginia, but as it has not been questioned, we shall assume this to have been the place of her domicile at the time of her death. the law of the state must therefore govern her disposition of her personal property, as well as of her real estate situated here. 1 Binney 336. 44. 3 Rawle, 318. 3 Pennsylvania Reports, 186. 7.

The questions which have been made in the argument, and those which necessarily arise in the case, are of the most interesting kind; involving the capacity of the Quaker societies of this and other states, to take real or personal estate by devise, without a charter of incorporation; their right to enjoy it for their own use, as a body united for the purpose of religion, charity and education, and what now are by the law of the land, pious and charitable uses, for which valid donations can be made by deed or will.

In referring to the history of the settlement of this state, the principles of its first settlers, the character of its founder, his systems and institutions, it would seem not a little surprising, that such questions could have remained open till this time: if there are any subjects on which the law could be supposed to be settled, it would be the rights of religious societies and charitable establishments. If there was any part of the law of England which could be congenial to the spirit and policy of the colony, and likely to be adopted by a society of men who sought an asylum from persecution for religious opinion, it would be that which would afford the best protection in the enjoyment of their rights, privileges, immunities and estates, as a religious society. If there were any laws which they would be disposed to leave behind them, they would be those which grew out of feudal tenures, a spirit of persecution, or an established religion; the last laws which they would introduce, would be those which created a forfeiture of all land conveyed to a society incorporated for the purposes of charity and religious worship, according to their own consciences, without regard to the mode of celebrating divine service as prescribed by law, or which prevent a donation for such uses from taking effect, without a special licence by charter or act of assembly. Such would be the natural conclusion from the known and practical principles of civil and religious liberty, which have distinguished the policy and jurisprudence of this state through all time, as founded on a system of "free and unlimited catholicism" in matters of religion, of expanded benevolence in matters of charity, and equality of rights in the enjoyment of property.

These leading features are so strongly impressed on the written laws, and enter so deeply into the customs and common law of the state, as to make it impossible to mistake the character and tendency of the system in the details of its legislation, by colonial authority, or the adoption of the statutes or common law of England. It is not conceivable that the Quaker settlers of this province should have introduced those laws of the mother country, which would incapacitate them as individuals, or a religious society, from taking, holding, or enjoying property as a matter of right without a charter; or expose to a forfeiture to the proprietor, or mesne landlord, lands conveyed to them for the purposes of sepulture, religious worship, or charity; and above all, that William Penn should have adopted the statutes of Henry VIII. declaring the celebration of divine service

according to the rites of the Catholic Church, to be superstitious, and conveyances for its use illegal and void, and the statutes of mortmain which make the enjoyment of property by a religious body, dependant on the pleasure and permission of the lord of the fee, while at the same time he excluded the statute of the 43 Elizabeth, and the mild and beneficent principles of the common law which that statute has been held to have restored.

The history of the society of Quakers, presents no instance of an incorporation:—did they adopt any rule of law, making one necessary to give them a legal capacity to purchase property? they have enjoyed it from the earliest time without a license in mortmain—is it liable to be now seized by the state as forfeited by the purchaser? they have their own modes of worship and system of charities—are donations for their support to be regulated by the prohibitory statutes of a foreign country, or confined to the uses specified in its laws? (Vide 2 Vezey, senior 475.) they have kindred societies in other states—do the laws of this invalidate a bequest of money to them for purposes of piety and charity? These are questions which have been made by the counsel in their objections to the devise of the lot of ground to the yearly meeting of Philadelphia, and the pecuniary bequests to the several meetings of friends in this place, and in Maryland, Virginia and Ohio. The objections to the validity of the disposition of this will, are not founded on any statutory law of Pennsylvania, but on the English statutes of mortmain, superstitious uses, and wills, alleged to be in force in this state by usage, though not adopted by any act of assembly.—The principles of the common law have also been relied on, as supporting the objections to the capacity of the parties to take, for the want of an incorporation, as well as of an act of assembly, containing enabling provisions, analogous to the 43 Elizabeth, validating dispositions for religious, literary and charitable purposes, and giving jurisdiction to the courts to carry them into effect, as they can do in England.

The field of investigation is from its nature a broad one, and from the confined course which has been taken in discussing the law of charities in the various cases which have arisen is in a great measure a new one.

Though there are several statutes on the subject in England, prior to the 43 Elizabeth, no treatise or opinion contains a condensed or comparative view of the system of charities, which has grown out of them, so as to enable us by any authority of precedent, or adjudication, to ascertain the definite source of the various principles, which have from time to time, become embodied into the general course of the law of England. Nor have the courts of the United States, or of this State, brought into contrast or comparison, either the policy of the government of England and this country, in relation to religious establishments and the rights of conscience—the general course of legislation pursued in either, or the principles of the common law independent of the statutes alluded to.

Proceeding on the assumption, that the 43 Elizabeth was the only foundation on which charities could be supported, in opposition to prior statutes, and that statute not being considered in force here unless reenacted, the courts in this country have laid down principles, which resting solely on such assumption, cannot be considered as authoritative in their conclusions, if on a more thorough examination the premises on which they depend should appear to be erroneous. We trust that a review of the course of their adjudication on charities will show that it has not become so settled as to be sanctioned by the maxim of "*communis error facit jus*," or that in endeavoring to extract the rules which must govern the law of charities from the constitution of the Union and this State, its statutes and usage and the statutes and common law of England, we vio-

late the respect due to the decisions of courts of high authority.

It is at all times proper to discriminate, between the question directly presented for the deliberate consideration of a court, on which they exercise their judgment, by a solemn adjudication; and those observations which are made by way of illustration, or mere declarations of what the law is, on any particular subject; the one is binding as authority, the other to be respected only as a mere opinion, or argument, which must have its influence, but cannot be enforced on our judgment.

If the supreme judicial tribunal of the State, or the Union, have judicially considered the statutes of mortmain to be in force, this court is bound to take the law as settled; but if they have merely declared them to be so, without making such opinion the basis of their judgment, or have, in doing so, omitted to refer to the Supreme law of the land, which bears on the question, this court may and ought to do what a higher one would do, notwithstanding any preconceived or expressed opinion—compare the constitution with the statutes and be governed by the result.

The 3d section of the 3d article of the constitution of the United States prohibits a "forfeiture for treason except during the life of the person attainted;" the constitution of Pennsylvania extends the prohibition to all forfeitures by attainder or "*felos de se*," or death by casualty: it is at least worth the inquiry whether a forfeiture in fee is incurred by an alienation in mortmain; against which, no prohibition is to be found in any law of the State. In a word, whether a penal law of England has an effect, which the whole power of the federal and state government is incompetent to give to a conviction for the highest crimes known to their laws. *Vide* 9 Sergeant & Rawle, 343.

This inquiry necessarily leads to an investigation of the common law, so as to find out whether these statutes are in affirmance or derogatory of its principles, which have been made the common law of the states so far as applicable to its policy; if they are of the latter character, then how have they become in force in Pennsylvania, and what is the evidence of their adoption by legislation or usage?—As these statutes impose a forfeiture of the whole estate conveyed, the proposition that they are in force here ought to be considered as an affirmative one to be made out by those who assert, that an act lawful by the common law, is prohibited by a statute. The penal laws of England have been presumed not to be in force here—the burden of proof has always been held to be on those who allege a forfeiture, by an act punishable only by statute; and it ought to be clear and conclusive, especially on subjects which affect the rights to the transmission and enjoyment of property.

If there was any one subject on which the founder, the legislature, and the people of the colony, from its first settlement, were governed by a settled, unyielding course of policy, it was to facilitate the transmission of estates, to secure their enjoyment, and disincumber them of all restraints attendant on feudal tenures, the forms of conveyance, the ceremonies of investiture, and most emphatically to protect them from the operation of all laws growing out of an established religion, which at all interfered with the rights of conscience or the perfect freedom of religious worship. *Vide* Lisle vs. Richards, 9 Sergeant and Rawle, 326, 34, 339.

The charter of privileges of 1701, the colonial laws, both the constitutions of 1776 and 1790, and the laws of the state, are in the same spirit which induced the people, in their first act of assuming independence, and establishing government by their own authority, to prescribe the following oath to the members of the convention who formed their first constitution: "That I will oppose any measure that shall or may in the least interfere with or obstruct the religious principle or practice of any of the good people of this province, as heretofore enjoyed." Convention of Penna. 39. The

constitution was in the spirit of this oath, and declared the rights of religious societies and corporate bodies held according to the usage of the colony to be inviolable; we have, therefore, a plain rule of decision by the supreme law of the state, if the nature and extent of such usage can be judicially ascertained.

The enjoyment of real estate in perpetuity, by any body incorporate by a written charter, or one presumed by law from evidence of long possession and exercise of corporate franchise, is *mortmain per se*; if on a review of the legislation and custom of the colony before, and of the state after the Revolution, it shall appear, that their rights have been the subject of the most continued favour, and their protection is provided for in the most explicit manner, it must be deemed conclusive evidence of the general policy of the state, at least, if it does not establish the utter incompatibility of any incapacity in any body of men not only to take, but to enjoy an estate to their own use, with the whole scope and tenor both of its written and common law.

The strong constitutional positon, which has been assumed by the senior counsel of the respondent in this case, has induced us to examine it with a degree of attention equally called for by the magnitude of the questions involved, and by the conclusions which we have felt ourselves bound to adopt; in some respects at variance with the views of the judges of the Supreme Court of the United States as to the necessity of an actual incorporation to give the capacity to *take*; and of those of this state, to enable a corporation to *enjoy* an estate. We think, however, that it will be found to accord with all the great leading principles and rules which have been too firmly established by themselves to be now shaken, and that their minds would have come to the same conclusion as ours have done, if the same materials for investigation had been presented to them.

In reviewing the judicial history of this State, it is believed that there will be found no decision, that an incorporation is necessary to give to any association of individuals, the capacity of taking and enjoying an estate in perpetuity, either by the assumed name of the society—or by the trustees for their use—if such a rule exists, it is only by the common law as adopted here.

Neither is there an adjudged case, turning on the statutes of mortmain, by which any estate has ever been vested in the commonwealth, by a forfeiture incurred in consequence of an alienation to a corporate body, without license, charter, or law; or any evidence that such license was ever granted by the proprietary or governor, or any public grant made with a clause of "*non obstante statuto*," in any patent, charter, or act of Assembly under the colonial or State government; nor does the word mortmain appear on the statute book for one hundred and fifty years from the date of the charter to Penn.

This unbroken silence would have been taken as conclusive evidence that the British statutes were deemed wholly inapplicable to the fixed policy of the Colony and State, its usage and fundamental laws, if the contrary opinion had not been expressed by the judges of the Supreme Court of the State, and adopted by the legislature at the present session. Hence arises the importance, as well as delicacy, of the questions involved in this cause; to consider them open after the declared opinion of both departments of the government, may seem to indicate a want of respect to their authority, but when we feel convinced that there is a law of higher obligation which must guide our judgment, we are bound to follow it.

The view which we feel constrained to take of the constitutions of 1701, 1776, and 1790, all of which remain in force, so far as respects the rights of property, conscience, and religious worship, is this: that all bodies united for religious, charitable, or literary purposes—though without a written charter or law—are to be

considered as corporations by prescription, or the usage and common law of the State, with all the attributes and incidents of such corporations, by the principles of the common law, and entitled to all rights which are conformable to the customs of the Province. From this view it results, that if the statutes of mortmain apply to those bodies whose charters are in existence, they apply equally to those whose charters are presumed from prescription: a brief summary of these provisions will show that they embrace all corporations of either kind.

The 9 Henry III. chapter 36, declared gifts made to any religious house to be void, and that the land given should enure to the lord of the fee—the 7 Edward I. prohibited all alienations in mortmain under a like forfeiture. These statutes were evaded by fictitious recoveries till the 13 Edward I. took away their effect—a new mode of evasion was then invented by conveyances in trust for uses in mortmain, so that the profits went to religious persons; the 15 Richard II. extended the former statutes to such uses, and to all guilds, fraternities, towns, and cities which have perpetual community, and all others which have offices perpetual, though not people of religion. Keble Statutes, 5. 33, 46. 181. 1 Ruffhead Statutes 9. 32. 100. 401, 2.

The 23 Henry VIII. chapter 10, prohibited conveyances to any bodies not incorporated, for the use of churches, &c. to have *obits* perpetual or the continual service of a priest for ever, and declared them void, but there was an express saving of the right of devising in mortmain by the custom of cities and towns corporate. Keble Statutes, 403, 4. 2 Ruffhead Statutes 171, 2.

The Statute of Wills of 34 and 35 Henry VIII. contained an express exception of devises to corporations. Keble Statutes 562. 2 Ruffhead Statutes 333, 4.

Such is the substance of the English statutes, which have been considered as the clogs upon dispositions, to pious and charitable uses, which have been removed by the 43 Elizabeth in England: if the question of their application to the state of things in this colony was a new one, we should deem it apparent that they were never practically extended to it. "It is the true principle of colonization that the emigrants from the mother country carry with them such laws as are useful in their new situation and none other." 3 Binney, 596.

That the law of charities as it rests on the 43 Elizabeth, is not only useful, but peculiarly adopted to the policy of the state is unquestioned: it is therefore difficult to account for the prevalence of the opinion that it is not in force, or that any statutes repugnant to its provisions, should have been considered as practically adopted: yet such is undoubtedly the apparent tendency of judicial opinion for the last twenty-five years.

In 1808, the judges of the Supreme Court, made a report to the legislature pursuant to a resolution calling on them to state, what English statutes were in force, in which they declare "conveyances to superstitious uses absolutely void by these statutes, and conveyances to corporations unless sanctioned by charter or act of Assembly, to be so far void that they have no capacity to hold the estates for their own benefit, but subject to the right of the commonwealth who may appropriate them at their own pleasure; in other words that such conveyances, have no validity for the purpose of enabling the corporation to hold in mortmain." They consider them as standing on the same footing as conveyances to aliens. 3 Binney, 626. *Laure v. Hillgas*, 7 Sergeant & Rawle, 319, 22.

In *M'Girr vs. Aaron*, they declared a devise to an officiating priest, and his successors not being a corporation sole, was against the policy of the law, and void as tending to a perpetuity. 1 Pennsylvania Reports, 51.

In the case of the *Methodist Church vs. Remington* they say—"The statutes of mortmain too which deprive corporations of the capacity to hold," &c. and

consider the legislature as evincing "an evident jealousy of clerical monopoly," though they refer to no act in which it had been expressed. They also decided, that a conveyance for a religious society composed of members, a majority of whom resided out of the state, was not good under the law of 1730; and that the trust not being sanctioned by any legislative recognition, they would not lend their aid to carry it into effect.

In *Witman vs. Lex*, they seem to take for granted, that at common law an incorporation was necessary to give a capacity to take and hold in perpetuity, 17 Sergeant & Rawle, 91; though it was dispensed with by the custom of the province. We should have felt bound by these opinions, if the court had taken a view of the constitution and legislation of the state on the subjects to which they relate, and given them a deliberate construction; but as they have not been called upon to declare the meaning of any, but the act of 1730, or of the provisions of any of the constitutions, it cannot be expected, that the law can be considered as settled until their provisions had been brought under judicial notice.

In the case of the *Baptist Association vs. Hart's exors.*, the Supreme Court of the United States have decided that a bequest of personal property to the plaintiffs as trustees was not valid for want of an incorporation, at the time of the devise, 4 Wheaton 28, and the decision was approved in the case of *Ingis vs. the Trustees of the Snailor's Snug Harbour*, 3 Peters, 114.

This case was ruled according to the law of Virginia, in which state the 43 Elizabeth had been repealed; we may therefore consider it a case settling a question of a local, rather than of a general nature; it has not at any rate such an application to the law of Pennsylvania, as to control this case, if it should appear to be embraced in the provisions of any act of Assembly or constitution of the state or to rest on its known and recognized usage.

So far as these opinions of both courts rest on general principles affecting this case, they are also open to all rules which have been laid down in other cases by the same authority, to which it is thought best to refer, before entering on a review of the general course of the law of England or of this state.

The last case which has arisen in the Supreme Court of the state, is the *Methodist Church vs. Remington*.—In giving their opinion, the Chief Justice uses this strong language, "The decision in *Witman vs. Lex*, is full to the point, that a trust in favour of an incorporated religious or charitable society, is an available one;" as the statute 15 Richard II. expressly applied to conveyances in trust, or for the use of religious persons, in mortmain, we may consider this statute, as not in force in this state. So that the objections growing out of the statutes of mortmain, will be confined to those of Henry III. and Edward I.

In relation to superstitious uses, the Court observe,—*"The present is not a superstitious use, and indeed it is not easy to see how there can be such a thing here, at least in the acceptance of the word by the British Courts, who seem to have extended it to all uses which are not subordinate to the interest and will of the established church;"* so that an inquiry into this subject is not closed. In *M'Girr vs. Aaron*, there were no trustees, and though the Court held the devise to an officiating priest void, because he was not a corporation; yet they declared it good in case of the congregation, though not incorporated. 1 Pennsylvania Rep. 51, 2. on the principle that "a gift to a charitable use shall not fail for want of a trustee, but vest as soon as the charity has acquired a capacity to take."

As the bequest in the case of the Baptist Association, failed only for the want of a trustee capable at the time of the devise, though there was an incorporation afterwards; we cannot consider it as authority in this state

where a different principle is established—the bequest would have been good according to *McGirr vs. Aaron*.

In examining the decisions of the Supreme Court of the United States, which precede and follow the Baptist case, it appears, that they have established a different principle as to devises of real estate for charitable uses, to or for the use of religious societies which are not incorporated; so as to leave that case applicable only to a bequest of money or personal property, even in Virginia. In *Terrell vs. Taylor*, land in or near Alexandria, was conveyed to two persons, and the churchwardens of the parish for the time being, and their successors in office, for the use and benefit of the Church in said parish; the deed was held to operate by way of estoppel, to confirm to the Church and its privies, the perpetual and beneficial estate in the land, though it was not incorporated, and churchwardens were not capable of holding an inheritance in land by succession. 9 Cranch, 43. 53. 9 Wheaton, 455, 64. The Court remark, "And in our judgment, it would make no difference, whether the Episcopal Church were a voluntary society, or clothed with corporate powers, for in equity as to objects which the laws cannot but recognize as useful and meritorious, the same reason would exist for relief in the once case as the other.

"Laws enacted for religious purposes, evidently presuppose the existence of the Episcopal Church, with its general rights and authorities growing out of the common law; the Church was capable of receiving endowments of land, and that the minister of the parish was during the incumbency, seized of the freehold of its inheritable property, as emphatically *persona ecclesiæ*, and capable as a sole corporation of transmitting the inheritance to his successors. 9 Cranch, 45, 46. 329. 9 Wheaton, 455, 464. In *Clark vs. the Town of Paulet*, they say, "The property was in fact and in law, generally purchased by the parishioners, or acquired by the benefactions of pious donors. The title thereto was indefeasibly vested in the Churches, or rather in their legal agents. 9 Cranch, 49, or representative entitled to take the donation. 9 Cranch, 329."

"The true legal notion of a parish Church, is a consecrated place, having attached to it the right of burial, and the administration of the sacrament. Every such Church of common right, ought to have a manse and glebe, as a suitable endowment, and when there is a Church actually in existence, a grant to it is in effect a grant to the parson and his successors, as an endowment to be held *jure ecclesiæ*. 9 Cranch, 329. 9 Wheaton, 464.

The parson has a qualified fee, but the land becomes the perpetual inheritance of the Church. 9 Cranch, 47. 53. 329. Co. Lit. 341. a. b. 2 Mass. Rep. 500.

In *Beatty vs. Kurtz*, the Court decided that the laying out and marking a lot in the plan of a town, "for the Lutheran Church," was a good and valid disposition—though it was not then organized, and was never incorporated as a religious society, but was a voluntary association, acting in its general arrangement, by committees and trustees chosen from time to time; or any Church actually in existence, or any grantee capable of taking. It was supported as a dedication of the lot to public and pious uses, and the enjoyment decreed to the committee of the society. 2 Peters, 580. 81. 83. 85.

The Court take a ground which applies with great force to the law and Constitution of Pennsylvania, as will appear hereafter.

"The bill of rights of Maryland gives validity to any sale, gift, lease, or devise of any quantity of land, not exceeding two acres, for a church, meeting or other house of worship, and for a burying ground, which shall be used, improved, and enjoyed, only for such purposes. To this extent it recognizes the doctrines of the statute of Elizabeth for charitable uses, under which, it is well known, that such uses would be upheld although there was no specific trustee or grantee."

In the case of the Town of Paulet, they laid down

the principle, that they considered appropriations or dedications of property to particular or religious uses as an exception to the general rule, requiring a particular grantee, and like the dedication of a highway to the public. 9 Cranch, 331. S. P. 2 Peters, 583.

In *McConnel vs. Lexington*, they considered that the immemorial use of a spring, by the people of the town, as public property, was evidence of its original dedication, and decisive against a private claim to its exclusive use. 12 Wheaton, 582.

In *Cincinnati vs. White*, the principle of these cases was affirmed to their fullest extent, and the Court add what is very important in the consideration of this case—that "the case of *Beatty vs. Kurtz*, did not turn on the bill of rights of Maryland on the statute of Elizabeth, but rested on more general principles of law. 6 Peters, 436, 7.

To trace these principles to their source in the early statutes and common law of England, is therefore in perfect accordance with the decisions of the tribunal to whose revision our opinion is subject; it is the more necessary in this case, as the general course of the law of England, as to the transmission and enjoyment of property, formed the law of the colony at its first settlement, and continued in force till repealed or altered by colonial authority.

In ascertaining what these general principles are, it is our duty to adopt the rules of construction which have been established by the Supreme Court, in the relation to charities, under 43 Elizabeth, and to apply them to the laws and Constitution of this State, and the other English statutes, which are analogous in their provisions and subject matter to that statute, in doing which we shall start upon premises which must lead to correct results.

The legislation of Pennsylvania will be first considered according to the rules of expounding statutes laid down in the *Baptist Association vs. Hart*, and those which are the principles of the common law.

"It is not to be denied, that if any gifts are enumerated in this statute which were not previously valid, or for which no previous remedy existed, the statute makes them valid and furnishes a remedy. That there were such gifts, and that the statute has given them validity has been repeatedly determined, the books are full of cases where conveyances to charitable uses which were void by the statutes of mortmain, or were in other respects so defective that on general principles nothing passed, have been sustained under this statute. If this statute restores to its original capacity a conveyance rendered void by an act of the legislature, it will of course operate with equal effect on any legal objection to the gift which originates in any other manner, and which a statute can remove. The authorities to this point are numerous: 4 Wheaton, 31. Sugden's Powers, 213. 2 Viner's Abridgment, 453. 755. Gilbert's Reports, 45. 1 Peere Williams, 248. 3 Peters, 141. 4 Chancery Reports, 40.

"Statutes providing remedy for the maintenance of religion, the advancement of learning, and the relief of the poor, shall be extended according to equity, right, and reason in their favour, and never against them," or be so construed as to permit the mischief to remain and suppress the remedy—the duty of Judges is to advance the remedy and suppress the mischief—to advance the public and suppress the private object. 11 Coke's Reports, 70 to 73 b. Hobart, 97. 157. 5 Coke's Reports, 14 b. Statutes authorising gifts in mortmain, and all laws in favour of public institutions shall be favorably and benignly construed. 11 Coke's Reports, 76 a. Hobart, 122. Coke on Littleton, 99 a. 9 Cranch, 531. 3 Peters, 140. 480. 1 Levins, 66. Dyer, 235. So of charters of the king for pious and charitable works, 10 Coke's Reports, 28 a. And all acts for the confirmation of grants by persons having power over the land, the deed shall be established though

it wants some circumstances to give it effect—according to its tenor and purport. 11 Coke's Reports, 78 a.

The statutes of superstition were intended to advance and continue good and charitable uses, and affect none which are not derived out of superstitious uses, or to be distributed by superstitious persons. Moore's Reports, 129, pl. 277. 4 Coke's Reports, 195. 11. 13. 14; where the same deed contains a disposition partly superstitious and pious and charitable in other parts, the latter are good, if not dependant on, and capable of being separated from the former. 4 Coke's Reports, 104 to 116, and cases cited. Anderson, 95 to 100. Croke Elizabeth, 449. Wingate's Maxims, 497. Coke on Littleton, 342 a.

Though hospitals are named in the statutes, they apply only to such as are religious or ecclesiastical, or the funds are to be devoted to purposes of superstition as specially defined and plainly prohibited, it shall not be made superstitious by construction or intentment—it must be plain and not imaginary, and no general words shall take away good and charitable gifts allowed by Parliament which are favoured in the law. Coke on Littleton, 342 a. Hobart, 1204. Moore's Reports, 865. pl. 1194. 11 Coke's Reports, 70 b. 71 a. Wingate's Maxims, 497.

An affirmative statute does not take away a right existing by common law, or custom, as the statute of wills which did not affect the previous right to devise. Coke on Littleton, 111 b. 115 a. 3 Coke's Reports, 35 a.

A custom saved and preserved by a statute is good against a statute, thus lands can be held in mortmain in London without license, because there is such a custom; Croke Elizabeth, 455, and the customs of London are saved by acts of Parliament and Magna Charta.—Coke's Institute, 201. 4 Coke's Institute, 250. 3. 5 Comyn's Digest by Day, 20. Croke Elizabeth, 248. 455. William Jones, 251. 387.

A statute authorizing an act to be done, repeals a law prohibiting it, otherwise it would be a dead letter in opposition to an established maxim that such construction shall be made of all acts, *ut res majis valeat, quam heret*, and reverse another unquestioned one, *leges posteriores priores contraria abrogant*. 6 Peters, 299.

A grant by the king or an act of Parliament, is an authority to hold the thing granted, and operates as a license dispensing with the performance of any other act required by any law against which the king may grant a license or dispensation; though none is given in terms, it *per se* creates an incorporation, confers succession and grants a rent, so if done by a private person under the authority of an act of Parliament, as the erection of an hospital. 10 Coke's Reports, 30. 25. a. Plowden, 502.

A clause of *non obstante statuto*, is not necessary to save a forfeiture by the statutes of mortmain; it is inferred from the act of the king or the legislature in order to give it effect; 8 Coke's Reports, 56. its only use is to show the king is not deceived. 4 Coke's Rep. 36. a. Hence it has always been held that the statutes did not apply to grants made by the king. 15 Viner's Abridgment, 479. A. 2.

"He shall not be intended to be misconant, and when he licenses expressly to alien, to an abbot, &c. which is in mortmain, he need not make any *non obstante* of the statute of mortmain, for it is apparent to be granted in mortmain," the license of the king or mediate lords "operates to two intents, as a dispensation from the statute of *quia emptores*, and of mortmain, because their deeds shall be taken most strongly against them, and the king shall not be presumed to make a void grant." Coke on Littleton, 98. b. 99. a. Plowden, 502. 8 Coke's Reports, 56.

Where land is held immediately of the king he may grant a license to alien in mortmain; if held mediately it might be made by the mesne lord or with his consent.

34 Ed. I., ch. 3. Keble's Statutes, 71. Ruffhead's Statutes, 155.

Since the 7 and 8 William III., he can do it without their consent. 2 Comyn's Digest by Day, 298.

As tenures of chivalry had been abolished by the statute, 12 Car. 2. the forfeiture accruing by alienation in mortmain, accrued only to the king, who may renounce by his license, a right conferred on the crown. Coke on Littleton, 98, 99. Vaugh. 332.

(To be continued.)

From Poulson's American Daily Advertiser.

#### YOUNG MEN'S COLONIZATION SOCIETY.

On the 1st of April last a committee of seven young men of this city, met to consult upon the best means for commemorating the benevolent views of the late Dr. Hawes, of Virginia, in reference to his 110 slaves. Several subsequent meetings were held, and in the same month the Constitution of the Young Men's Colonization Society of Pennsylvania, was adopted and the Society organized. In the ensuing month, a series of highly interesting public meetings were held—several hundred members enrolled, and several thousand dollars raised. In May, instructions were transmitted to Africa for the purchase of territory, and the erection of requisite buildings for the comfortable accommodation of the first emigrants; and on the 1st inst. (a period of only six months after the subject was first discussed) the fine coppered ship *Ninus*, of 260 tons, commanded by Capt. Parsons, an experienced and intelligent man, was chartered by the Executive Committee, to proceed to Norfolk for the slaves, and to proceed on her voyage to Bassa Cove, on the 24th inst.—the 153d Anniversary of William Penn's landing. The committee is engaged in providing an ample supply of all needful articles, to ensure the safety and comfort of their proteges, and there is every reason to hope that under the Divine blessing, this enterprise of enlightened and expanded benevolence, will be crowned with signal success.

It will doubtless be interesting to the friends of the cause to know, that the society has obtained the most satisfactory evidence of the moral fitness and general qualifications of their intended emigrants for the purposes contemplated. On the 1st July, their commissioners, Messrs. Cresson, and Naylor, proceeded to Washington, and after arranging with the parent board, the mutual relations of the two colonies, visited the estate of the late Dr. Hawes, where they were received with much kindness by his heirs, and great gratitude by his slaves. In the neighborhood there was an universal manifestation of interest for these people, and expression of respect for their character. On conversing with them, individually, all evinced an ardent desire to fulfil the design of their late owner, with the exception of one old and infirm man, who, as he said, having no children to be benefited by the change, preferred staying with his wife, a slave on a neighboring plantation. All the probable contingencies consequent upon the formation of a new and distant settlement were candidly laid before them; but with all these they appeared to be familiarly acquainted, and Dr. Hawes had for years been preparing them for their new position in society, so that the committee found their number to comprise several carpenters, blacksmiths, masons, shoemakers, weavers and dyers, as well as farmers—two were preachers—two school-masters, and most of the women expert seamstresses or mantua makers. Much of the work upon the splendid mansion had been performed by the slaves. The carpets, the table linen and bedding, each superior of their kind, were pointed out by Mrs. Thornton, the niece of Dr. Hawes, as their work, and even her own shoes, elegantly manufactured, were made by them. All agreed with great cheerfulness to the temperance

pledge required,—one of their elders observing that it would be no hardship, as there had been only one pint of liquor used in harvesting 250 acres of wheat, during weather of unprecedented heat. One Sabbath was passed in this interesting family—in the evening the slaves dressed better than most of our laboring classes, assembled in the dining room with the family and guests. The services were commenced by one of the slaves giving out a hymn, and reading a chapter of the Bible, followed by an ardent and very touching and appropriate prayer; after which he requested the gentlemen who had manifested so deep an interest in their welfare as to travel some hundreds of miles, on their behalf, to recapitulate to them collectively, the information previously communicated relative to their future home, and after a full interchange of sentiment, all reiterated the wish to embark speedily. One very valuable mechanic, belonging to a most benevolent gentleman in the vicinity, has been gratuitously manumitted by his master, and will accompany his friends, with an outfit of tools and clothing, presented by his late owner, who had just refused \$1000 for him.

Ample evidence was afforded that the south, although indignant at the very thought of being coerced into emancipation, would listen to the voice of kindness, and stood ready to embrace measures which their reason and conscience approved. As the best proof of this, their truly estimable pastor, Rev. F. Thornton, at the close of Divine service at a neighboring church, read the plans and principles of the new Society, on which nearly one hundred of the congregation offered to enroll their names as members of a similar association.—And it is equally gratifying to receive frequent assurances, that the mild and gentle doctrines of colonization, together with the practical results of the system, had opened thousands of hearts to embrace the principles of emancipation. Dr. Hawes himself, was adduced as a striking instance. He had but a few years before, contemplated a division of his slaves among his relatives, but on being presented with a copy of the *Liberia Herald*, was so struck with the strong evidence it afforded, of the success of colonization, that he forthwith commenced the system which has so rapidly elevated the character of his people, and prepared them for sowing the seeds of civilization and Christianity on the shores of long degraded Africa.

From the Columbia Spy.

**QUICK WORK.**—On Monday morning last, Mr. Benjamin Herr, of Manor township, conveyed a load of whiskey in a wagon from his distillery to Lancaster, a distance of eight miles, transferred it immediately to a car on the railway at that place, and arrived safely with his ardent spirits at Philadelphia on the same evening, after a journey of seventy miles on that valuable public improvement. We mention this fact, not only to show the increased expedition of this mode of carriage and the facility of access which it affords to a place of sale, but also to prove that not only will the products of our Lancaster county farms not depreciate in value on account of any competition which the western part of the state may be enabled to offer through these new avenues of trade, but that they will in truth be enabled to command the market; and should prices rise one day, their city agents can inform them thereof, and by the succeeding evening, their articles of traffic may be on the spot, and obtain the full benefit of the excitement in business, while the letters of the more distant agriculturists are yet on their way to their destination.

From the Pittsburg Gazette.

**FREIGHT.**—Almost one thousand tons of freight arrived in the course of last week, yet how little bustle did its arrival create here!—how quietly has this immense business been transacted. Had these articles all

been brought by the turnpike road, they would have required about *four hundred* wagons, *four hundred* drivers, and more than *two thousands* horses. What a saving does this statement demonstrate! There appears still, however, a very great deficiency in the freight going from here, but the arrival of the Steam boats from below, with the full cargoes, which we may shortly expect, will in part remove this source of regret, and a reduction of tolls on produce would at once give rise to an immense increase of transportation eastward.

From the United States Gazette.

### ANTHRACITE COAL, VERSUS WOOD.

Mr. Editor,—It appears strange that so many of our good citizens should persevere in the use of wood when it is such decided economy to consume coal.

Believing that it must arise in a great measure from ignorance in relation thereto: I now state a few cases of decided saving in the use of it, passing under my own notice.

A few years since, I first used it in my parlors, being pleased with the regular warmth it afforded, night and day, and especially the comfort of a warm room, in coming down in the morning from my chamber, I made a careful estimate of the relative cost with wood; and found from my bills, at the then comparatively high price of coals, \$7 per ton; that I had in two seasons saved more than the first cost of my grate and the cost of putting it up. I then resolved to introduce it into my chamber, and have now burned it there about three years; thus affording myself at night, a pleasant temperature, by covering it up with the fine coal, and in the evening a bright fire with the stove and nut coals.

Still finding a further decided reduction in my annual bills of fuel, I resolved to burn nothing but coal in my house, and consequently, last year bought a cooking stove for the small kitchen, and a grate for the large; as also another small stove for the nursery; making in all, three grates and two stoves; four of which fires will probably be constantly ignited. To supply them all with coal for the 5 or 6 months of cold weather, we purchase

10 tons of nut coal at \$4 25 is	\$42 50
4 tons stove coal at \$5 is	20 00

14 tons cost at above prices	\$62 50
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which will probably be sufficient, unless the winter should prove to be very cold; in which case three tons more of stove coal might be required, which at the 5 dollars each, would be fifteen dollars, making my total bill of fuel \$77 50 for four constant fires and one occasional. This used to cost me when burning wood, and laid in at the most favorable period, and used afterwards with great care and economy, as follows, viz:

Twenty cords of oak at the low price of	
\$4 a cord	\$80 00
Hauling at 40 cents a cord,	8 00
Sawing twice a part of it say	12 00
Piling at 18½ cents a cord	3 75
Four cords of hickory at \$5 50	22 00
Hauling at 50 cents a cord	2 00
Sawing once at 50 cents	2 00
Piling at 18½ cents a cord	75
	<hr/> 130 50

Thus affording a clear saving each year of at least 53 dollars, and adding greatly to the comforts of the family, and the safety of my property. As I conceive the risk and expense attending the sweeping of chimneys is at least equal to ten or fifteen dollars more than the above.

If you think this is not too late to prove useful this season to many of your subscribers, it would be well to publish it, as you may rely on its being correct, and I have no doubt it will fully satisfy some, that it is well worth the cost of buying grates and stoves, (of which we have now so many good and cheap patterns,) to insure a permanent and decided economy, and which can now be relied upon, as the abundant supplies of good coals, and at very low rates, fully insures to all those disposed to economize.

X. Y. Z.

In Vol. IV. page 237 of the Register, will be found another estimate of the comparative value of Wood and Coal, showing an annual saving to a small family of \$30 28 in favor of the use of Coal.

From the State's Advocate.

# AN EXHIBITION OF THE UNION AGRICULTURAL SOCIETY.

*Union Agricultural Society's Cattle Show, and Exhibition of Manufactures, &c.*

Tuesday, Oct. 28, 1834.

The day was fine, and an immense concourse of members and spectators were on the ground at an early hour. Arrangements having been made on the premises of Messrs. Daugal & McCleery, to receive the horses, cattle, &c.; and in the extensive store room of Mr. F. W. Pollock for the Manufactures, &c. both were well supplied:—The former with a more extensive variety of horses and cattle than have been exhibited on any former occasion; and the latter with a large assortment of choice articles of home manufactures and specimens of art and industry, the work of both sexes, which gave ample proof of the steady march of improvement, both in regard to our manufacturing institutions and family industry and economy, which, to every reflecting mind are objects of equal importance: and to the system of none more than the speculative theorist, did the exhibition oppose a negative illustration of the doctrine, that, family industry must fall a sacrifice to manufacturing institutions.

The crowd of spectators was so great till a late hour in the hall, that but little time remained for the committee on manufactures, &c. to perform their duty, of course but a hasty examination was made, and the committee adjourned to meet at the hall of exhibition at 9 o'clock on the following morning, to complete their examination, make report, &c.

Wednesday, 29th.

The committee met at 9 o'clock and proceeded in their examinations until twelve, when the Auction sales of manufactures commenced. The committee then proceeded to Mr. Witter's Hotel, and organized for the purpose of receiving reports and awarding premiums &c. William Hayes Esq. Vice President in the chair, and in the absence of the Secretary, James Merrill, Esq. was appointed and acted pro tem. The following report was offered by the committee on horses, and adopted without dissent, and ordered to be printed entire, viz:

*To the Union Agricultural Society.*

The committee on horses beg leave to report:

That they have attended to their duty and they take this opportunity to express their high gratification at what they have witnessed. They believe, that at no former time, have there been so many and real good horses brought forward, as competitors for premiums and for exhibition. It affords convincing evidence, that the important subject of raising valuable horses for the market has engaged the attention of the members of your Society; and we feel assured, that its importance will be after a time, duly appreciated. Your committee deem it needless to enter into any argument to show the advantage of breeding good stock in dis-

tion from bad. They are happy to see that the country begins to view the subject in a proper point of light; and this exhibition proves that an effort is making in our neighborhood to increase our agricultural skill and of course our prosperity.

Among the horses produced for exhibition, your committee would notice with pleasure, two Stallions offered by the Hon. Richard B. Jones, of Montgomery county, they show, that beauty, strength and action, and fitness for almost all kinds of service may be gained by proper care in breeding from the Arabian stock.

The committee are of opinion that the horse Forward, was, considering blood, size and muscle the best horse exhibited; and while they say this, they would not be considered, as passing slightly the other horses. *Young Henry* and *Tremendous*, both superior horses. *Young Henry* is, undoubtedly, recommended by his stock, some of which were brought to the show. *Tremendous* is a horse lately brought to our country, and in a condition not to appear to good advantage. The appearance and action of *Tremendous* give promise that hereafter he may step up a notch or two, in the grade of valuation—but as *Forward* has not been in the country a sufficient time, they would therefore award the premium to *Young Henry*. Among the three year old colts, the Committee have no hesitation in giving the preference to Mr. John Snyder's horse *Apex*, a John Richard's colt. There were several three year old colts of great promise, and among them Mr. Strab's colt *Red Jacket*, and a grey colt of Mr. Smith.

Among the breeding mares, the committee do prefer a grey mare of J. F. Murray, whose colts by John of Jersey, the committee believe to be a colt of great promise—and Fanny Seely the dam of *Apex* and property of John Snyder, whose stock is full evidence of her qualities as a breeder. There were other mares, particularly *Kitty* offered by John Lashell, Esq. of which the committee entertain a very high opinion, but they had not with them the evidence of their qualifications as breeders. We would advise and urge all the members to send forward their stock to future exhibitions, as no committee can judge so well from appearances, as from the produce of the animals themselves.

The committee conclude with the following resolution, Resolved, that the Hon. Richard B. Jones, be elected an honorary member of this Society, and that the Secretary forward to him a certificate of his election.

All of which is respectfully submitted.

A. WOODWARD,  
JAMES F. MURRAY,  
DAN CALDWELL,  
JAMES MERRILL,  
JOSEPH PAXTON.

At the request of Mr. Meixel, a portion of your committee called and viewed a Threshing Machine of Burrall's Patent. So far as they could judge they were of opinion, that the Machine is one of great practical utility, strong and durable, and well worthy the attention of our farmers.

JAS. F. MURRAY, } in behalf of the  
JAS MERRILL. } Committee.

The committee therefore awarded to Benjamin Prentiss, for the *Young Henry*, a premium of \$5 00  
To Messrs. J. F. Murray and John Snyder, for the breeding mares, "*Grey*," and "*Fanny Seely*," a premium in equal parts of \$8 00

To John Snyder for the young horse *Apex* \$5 00  
The members of the committee on cattle and other stock, communicated their views to the board, from which it appeared that a large variety of cattle were on the ground. Among those for exhibition and sale were two Durham Bulls, offered for sale by the Hon. Richard B. Jones of Montgomery county. These animals were three years old, of fine growth and full blooded, and were purchased, one by David Watson, Esq for \$100; the other by Messrs. Gale and Strawbridge, for \$90.

James S. Stoughton also exposed some fine Durham cattle, of full blood, among which was a young Bull of promising growth and appearance. None of them however, had been in the district long enough to enable the committee to award premiums for their introduction. Among the variety otherwise exhibited, the committee are of opinion there was nothing that showed so much improvement over those formerly exhibited as to entitle them to a premium, except a yoke of *twain* oxen, which the committee on premiums excluded, as the owner was not a member of the Society.

The committee recommended the flock of sheep, belonging to James F. Murray, for their sound and healthy appearance, to the patronage of the Society. For which a premium is awarded of \$2 00

The committee on Ploughing and implements of Husbandry, made the following report which was adopted, viz:

Your committee appointed to view and report on the Ploughing, have attended to it, and report in favor of Mr. James D. Wilson.

We have viewed Mr. John Dieffenbaugher's corn plough, and seeding plough, but not seeing them in full operation, are not able to judge properly of their usefulness, but, would recommend them to the attention of the Society.

JOSEPH HAYES,  
DAVID IRELAND,  
SAMUEL HENDERSON,  
DANIEL MONTGOMERY.

The committee awarded to James D. Wilson \$2 00 for good Ploughing.

The committee also are desirous that Mr. Dieffenbaugher, should be suitably encouraged for his corn and seeding Plough, and hope such evidence of its usefulness may be laid before the society, at its next annual meeting, as may entitle him to a premium proportionable to the invention.

The committee on manufactures report the following articles for Premiums, viz:

1. To Mrs. Dale of Union county, for a Carpet of fine pliable texture, and especially superior and well ranged colors, \$4 00

2. To Mrs. M. Petriken of Muncy, for a Carpet of excellent body, but the texture rather more harsh, and the colors, which the committee deem an important part of the manufacture, (though good) less bright, (this article was woven by Wm. Edwards of Muncy,) \$3 00

3. To Daniel Goodman of Danville, for a Carpet, texture and colors fair, \$2 00

As the manufacture of Carpeting is important to the community, it being an indispensable requisite to the comfort of every family; and is of considerable expense if purchased abroad—the Committee have been exceedingly careful, in selecting the three specimens from the large quantity of good carpeting, they had the pleasure to see offered on this occasion;—the Society being very anxious to promote its manufacture as a branch of family economy. To all who exhibited the article, the thanks of the Society, through the committee, are tendered—especially to Mrs. S. B. Merrill of New Berlin, who accompanied her carpet with an account of the various items of cost in manufacturing, which is here appended as useful information, believing it to be about the minimum cost of ingrain carpeting manufactured under the domestic roof, of good quality.

29 lbs. wool at 25 cts per lb. \$7 25

27 lbs. tow yarn, at 10 cts per lb. 2 70

Spinning and Twisting, 2 60

Dye Stuffs, 4 01

Coloring tow yarn 6½ cts. per lb. 1 68½

Weaving 15 cts. per yard, 4 41½

\$22 66½

Whole outlay for 29½ yards, being 76½ cents per yard.

To Mrs. Jane M'Guire of Turbut, for 42 yards of Linen, spun 48 cuts to the piece; of a remarkable smooth texture, the piece weighing 14 pounds 3 50

To Mrs. Lydia Mackey of Milton, for a sample of beautiful sewing Silk, of very brilliant colours, 2 00

From the large assortment of elegant quilts, the committee selected three,—one presented by Mrs. Bound—by Miss Bellas of New Columbia, and Miss Beckly, as objects of premiums, and to each one dollar was awarded.

To Zechariah Merkle, for a very superior Hat, \$1 00

To Andrew Straub of Mifflinsburg, for a Secretary, 2 00

To Miss Mary Rhoads for a Rug, which displayed much ingenuity and perseverance in a useful branch of industry, 2 00

To Miss Ellenor Deeter, for a superior wrought veil, 1 00

To Millard and Bacon, Manufacturers at Brier creek, Columbia co. for Broadcloth, 4 00

Ditto for Cassinett, 3d premium, 1 00

To Richard Bennett, of Columbia county, for a superior piece of three-fourth Cloth, 3 00

Ditto 3d premium on Cassinett, 2 00

To Ellis Bryan, of Hughesburg, Lycoming county, for Cassinett, 1st premium, the article being of superior quality, 3 00

To James Tomlin, of Elkland, Lycoming county, for an easy Chair or Couch, which displayed much mechanical skill, and is highly recommended by physicians for the comfort of decrepid or convalescent persons,\* 2 00

To Miss Ann Moore, for a beautiful Tuscan Bonnet, manufactured of spear grass, and reflects much credit upon the manufacturer, 2 00

To William Fulkerson of Turbut, for raising 57 bushels of Barley, on 173 perches of ground, 2 00

To Samuel T. Brown, for Calf Skins of fine texture and finish, 2 00

To Leonard Stoughton, for an elegant parlour Coal Stove, 2 00

Messrs. Wilson, Clark and Witt, Saddle and Harness makers of Milton, exhibited, each, a splendid set of Harness, which added much to the variety, and did credit to the makers. But the committee were of opinion, that no particular improvement was manifest, over those which had received premiums from the Society.

No improvement was observable to entitle the white Flannels to a premium.

Mr. Francis Bull's Carriage, exhibited, was of good workmanship, and combines elegance with durability.

Mr. Tweed's Currant Wine, was of superior quality and flavour.

\* Mr. James Tomlin:—Sir, having carefully examined the Recumbent chair or couch exhibited by you at the late meeting of the "Union Agricultural Society," in this borough, I have great pleasure in saying that I have never seen any thing so well adapted to the comfort and convenience of convalescents, as this chair.—Besides the convenience that is to be derived from it within doors by the application of castors rollers it will enable convalescents or debilitated persons to use exercise in the open air when they are unable to obtain it by any other means, the weather permitting. Exercise in the open air is considered by all intelligent Physicians, so essentially necessary to the restoration of good health, that it is recommended as soon as the patient's situation will admit of it; in the treatment of a fracture of the lower extremity, I know of no couch preferable to it either for the benefit of the surgeon or the convenience of the patient.

JAMES S. DOUGAL, M. D.

Milton, Oct. 31, 1834.

Miss Martha J. Davison's Quilt, was a beautiful article made up of 6,515 pieces, and noted for premium by the examining committee, but excluded by the committee on premiums, as there was no membership to claim on.

Mr. John Arnold, Dentist, of Milton, exhibited a beautiful set of artificial Teeth of his manufacture, which showed great skill, and appeared to be as good a substitute for the original masticators, as could well be produced by the artizan.

A very extensive variety of ornamental articles were exhibited, such as a Terrestrial Globe well executed by Miss Hannah Webb, of Muncy, several Purses, Gloves, &c. by the same—a Purse by Miss Arnold—several Reticules and Purses and beautiful samples of needle work, by the Miss Roads and others.—An ingeniously worked Foot Stool, the covering by Miss Worthington, of Lewisburg, nine years of age, with a variety of similar productions, which, although they do not come properly within the sphere of the Society's action; yet, the committee are sensible of the propriety of encouraging every branch of industry, and that the young idea must be trained and disciplined in works of genius, to prepare it for the more indispensable avocations of life, and would, with great pleasure, have given premiums to those works of art, and good taste, if the state of the Treasury would admit it. They hope for a more favorable opportunity.

**Elections.**—The committee on Elections performed their duty, and reported the election of the former officers unanimously, viz:

*President*—Charles Gale.

*Vice President*—Wm. Hayes.

*Secretary*—Wm. A. Petriken.

*Assistant Secretary*—Joseph Paxton.

*Treasurer*—Wm. Tweed.

Williamsport and Muncy had an *even* vote for the place of holding the next annual cattle show—of course no determination will be made until the meeting of the officers and committee of Vigilance, on the 2d Tuesday in May.

The committee view with regret, the low state of the funds of the Society, and the supineness that exists on the part of those whose duty it is to make exertions to supply the Treasury. In short, it appears to the committee, that though Lycoming county agreeable to usage, is entitled to have the next annual meeting within its limits, yet, the appointment of a place there, or elsewhere, will depend very much upon the efforts made prior to the spring meeting to raise funds. It is hoped that, in order, to decide this important matter, the committees in the several counties appended to this report, will be in attendance with such funds as they may be able to raise in aid of the Society.

The committee would further observe that many reasons exist why the funds ought to be collected and paid over to the Treasurer before the fall exhibition.—Among others, the excessive hurry which attending to the receipts of money on that day imposes on the Treasurer, makes a toil of what would otherwise be a pleasure to the person who performs that duty, without reward. This would be remedied by paying over the funds at the spring meeting.

While the committee would bear honorable testimony to the punctuality of many members of the society, and particularly to Messrs. Boyd, Ireland and Lushells, whose liberal donations, above their annual contributions, appear on the records—they cannot too strongly express their disapprobation of the more illiberal course pursued by some of making a transient connection with the society a matter of speculation; drawing from the society's funds to which they may have contributed *one dollar*, premiums of *five or ten, less or more*, and then withdrawing from the society because they "*have nothing to show this time!*" The society was not designed for purposes of speculation but to

operate as a general public benefit, and its members ought so to consider it. The return of an equivalent to contributors to agricultural societies, is not in the awards of premiums to successful competitors, so much as in the impulse given to the general industry by competition; and in the advantages of this industry, the whole community is rewarded:—Like the rains which fall upon the *good and bad alike*, the good results of societies for the promotion of industry reach the interests of those who contribute, and those who do not in the improvement of stock; in the improvement of manufactures, implements of husbandry, and the rise in the value of land. An honorable visitant to the late exhibition from the bounds of the "Pennsylvania Agricultural Society" observed, that the sure result of the proceedings of the "Union Agricultural Society," would be, if properly conducted, and entered into with suitable spirit, to raise the value of land within its bound, \$10 per acre. The committee are well aware, that, if the subscribers to the society would make themselves acquainted with the principles upon which the institution is founded, and its operations upon their general interests, they would not cease their contributions when they "*have nothing to show.*"

It presents a subject of regret to the committee, that the cultivators of the soil do not experiment to a greater extent in their very laudable avocations, and give the knowledge gained by such experience to the community. It is by exercising the faculties of the rational intellect, we arrive at a well systematized and correct theory, as well as practise, that the farmer is to confer reputation on his pursuits, and "*stand before kings*" who rule the world by concerted system; "*and not before mean men*," who have no rules of action, nor endeavour to learn rules, but move and act at random, like the irrational animal. In circulating knowledge gained by the experience of practical and observing farmers, the Agricultural Society furnishes an appropriate medium in its annual reports.

The society are under obligations to Mr. J. P. Sanderson, for communicating to the committee his experiments in raising potatoes. Mr. S. is of opinion that the greatest error practised, in this branch of farming, is planting too close. He last year raised 80 bushels of fine potatoes from one bushel of seed; and from a long course of experiments, he is satisfied that more than eight bushels of seed should not be planted on one acre of ground.

The following are committees of vigilance to raise funds for the society, viz:

**For Northumberland county.**—David Watson, Henry Reader, John Vincent, Jas. P. Sanderson, Geo. Prince, James F. Murray, Alexander McEwen, John Yaggart, D. Ireland, J. R. Priestly, Dr. Wm. McCleery, Gen. H. Frick.

**Columbia county.**—William Dale, Jacob Rupert, James McMahon, Joseph Brobst, Valentine Best, Daniel Montgomery, jr., Dr. A. H. Newcomb, Collin Cameron, Dr. Magill, James P. Wilson.

**Union county.**—Dr. Baskins, Jas. Merrill, Esq. Henry Oyer, Dan Caldwell, Dr. Thomas Vanvaldich, James K. Davis, Thomas Clingan, Alexander Graham, Samuel Henderson, Jno. Snyder.

**Lycoming county.**—John Burrows, Esq. George Edkin, John Cummings, Esq. A. Woodward, Esq. Charles Lloyd, Samuel Rogers, Benj. Bear, Abraham Bodne, Col. Jacob Beeber, Washington Dunn.

The thanks of the Society are respectfully tendered to Messrs. Dougal & McCleery for the use of their fields, and to Mr. W. Pollock for room, for the purposes of the Society.

W. HAYES, Vice Pres't.

Attest,

JAS. MERRILL, Secretary, pro tem.

From the U. S. Telegraph.

## TO TURNPIKE AND RAIL ROAD COMPANIES.

A subject of deep interest to Turnpike and Rail Road companies has been developed in England, and to which I have lately called the attention of our citizens, in a pamphlet entitled "Substitute for Rail Roads and Canals." I would therefore briefly invite the attention of all who have invested capital in turnpike roads, or are about to enter upon the construction of new roads, whether rail or stone roads, to the facts enumerated in the pamphlet referred to, a copy of which, gentlemen interested in the subject may obtain by application to the author.

The question has been satisfactorily settled in England, upon the perfect practicability and economy of running steam carriages upon the common roads; and such are the advantages which these carriages are found to possess, running upon an improved roadway, that they are made to enter upon a successful competition with the locomotive upon a rail road. The speed of these carriages is capable of being increased to any attainable degree, equal if not superior, to that of the locomotive on the rail road; and in respect to ascent or descent of hills, they surpass the locomotive, as the powers of this engine are nugatory, or cease to produce a useful effect, when the ascent is greater than 211 feet in the mile, or 2 degrees 18 minutes; whereas, upon a good common road of this inclination, the same engine could not only draw a load equal to itself, but run with a velocity of 16 miles an hour. With half this elevation of plane a ten horse engine on a rail road, will draw 30 tons, without the wheels slipping. Upon the common road, this power would draw, upon the same elevation, nearly 60 tons.

The large capital which has been expended in the construction of turnpike roads should not any longer be rendered ineffective, when the means of making them profitable are within our power; and there is no reason why we should embark so much capital in constructing rail roads, when a trifling expense laid out upon our turnpike roads to adopt them for the operation of steam carriages, would accomplish all that is requisite. We can ill spare the large sums now investing in railways, as there are objects of greater moment which require the aid of this capital to put in operation. Rail roads have a tendency to monopolize the travel, whereas, the common road, improved, would be open to the use of all. Competition is the life of business, and beneficial to the public interests. Turnpike and other road companies have a deep interest at stake in the subject before us; and if they would improve their roads upon the plan proposed, so that steam carriages could operate upon them, there is no question of the pecuniary advantage they would derive from it. The latest intelligence from Great Britain confirms the facts heretofore promulgated that steam carriages are successfully operating upon the common turnpikes in that country.—"Between Glasgow and Paisley, they regularly run; and there is every reason to believe," says the English writer, "that they will shortly be successful every where, as the hindrance opposed to their running by the turnpike gates, are now to be done away by government."

I shall close the remarks by exhibiting a summary of facts.

I. Carriages propelled by steam, have averaged a speed of 10 miles per hour on common roads; and on good roads, with the same power, they have been propelled at the rate of 30 miles per hour, for four hours and a half together, with nineteen passengers.

II. They have ascended hills of considerable size, (2 in 6) at the rate of sixteen and a half miles per hour, loaded with people; they experienced no difficulty in travelling over even the worst and most hilly roads; and further, they were capable of overcoming every

ascent which carriages drawn by horses could accomplish, and with much more facility and safety.

III. The saving of expense to travellers, by the substitution of steam for that of horse power, is from one-half to two-thirds even on common roads; and upon a good road, adapted for the use of these carriages the expense of transportation would be reduced to half this amount, probably one-fifth or one-sixth of that of the horse power.

IV. They are perfectly safe for passengers; less liable to accident than where horses are used; more manageable in the highest velocities, and their speed capable of being checked at pleasure, in a very few moments.

V. Steam carriages will be found superior, working on good stone roads to the operation of the same power on the rail road.

1st. From their capacity to ascend and descend hills, perfectly inaccessible on rail roads.

3d. From the great speed which may be given them with safety, and the ease with which they may be checked when requisite, or when encountering an obstacle.

3d. From their being able to travel in any direction, making short turns, or the entire sweep of the circle of a small compass; which will enable them to carry their passengers to any point in the city, which a locomotive carriage on a rail road could not effect without laying a track for this purpose.

VI. By the use of steam carriages on good stone roads, a vast saving of expense to the country would result, as the difference of cost between such stone roads and rail roads or canals would be at least two-thirds; so that if 60 miles of railway cost \$1,200,000 a good stone road would cost but \$400,000.

VII. By the use of steam carriages, the expense of repairs of the road will be much reduced, as it has been proved that horses do the chief damage to roads; the carriage wheels but little.

VIII. The general introduction of steam carriages on these roads, will have the effect of removing horse power, "a most unproductive labor," says Mr. Gurney, "and a dead expense to the country." The advantage to the nation will therefore be in a direct proportion to the substitution of steam for horse power.

The consumption of a horse is equal to what will support eight persons, so that by every horse removed and supplied by elementary power, the maintenance of eight individuals is provided for. In time of scarcity, this advantage would be sensibly felt in the country, and more especially in the manufacturing districts.

ROBERT MILLS.

Engineer and Architect,

City of Washington:

Sept. 17th, 1834.

P. S. Editors friendly to the cause of internal improvements will please give the above an insertion in their papers.

Some months ago we published four short numbers on this subject, written by Mr. Mills, being the first of a series of demonstrations of the practicability of steam carriages on common roads. The intervention of the session of Congress interrupted their publication; and we now avail ourselves of a fair opportunity to resume and complete them, beginning with the following.—*Nat. Intell.*

## SUBSTITUTE FOR RAILWAYS AND CANALS.

No. V.

The Select Committee of the British House of Commons, on this subject, went into an examination of the comparative injury which these steam coaches would do to the roads, and were satisfied that the deterioration of the roads will be much less by a steam carriage than by a coach and horses. One important fact was proved, that the roads received greater injury from the horses' feet, than the wheels of the carriage drawn.

The roads in England have, at present, to sustain waggons, weighing, at times, with their horses, nearly ten tons. Steam carriages including engines, fuel, water, and other attendants, need not exceed three tons. The last carriages built by Mr. Gurney were stated to weigh not more than 35 cwt with the same power attached to a carriage weighing four tons, Mr. G. was at this time (1831) building a carriage to weigh but about five hundred pounds, which he expects to do the work of one horse, and carry two or three people. The weight of an ordinary stage coach is between 18 and 25 cwt. which carries about eighteen passengers. The weight of the propelling steam carriage is about the weight of four horses. The weight of the carriage drawn would be precisely that of a carriage drawn by horses.

At the ordinary rate of travelling, the average pressure of the boiler of Mr. Gurney's engine per square inch was about 70 pounds; and he proved the tubes of his boiler to 800, and thought they would bear two thousand pounds.\*

The perfect command in guiding these carriages, and the stopping of them is singular. In case of emergency, says Mr. G. we might instantly throw the steam on the reverse side of the pistons, and stop within a few yards; it would be possible, he observes, to stop the carriage within six or seven yards, going at the rate of 8 miles per hour.

The facility of turning these carriages is also remarkable, they have been turned in a circle of ten feet, the inner diameter.

The degree of safety to which the boilers of these steam carriages are brought, does away all idea of danger from explosion. To one of the questions of the Committee, referring to this subject, Mr. Hancock makes the following answer:

"I was travelling about nine miles an hour at the time the boiler was the twenty fourth part of an inch thick; I was working them at the hundred pounds on the square inch, with thirteen persons on the present vehicle that I have now in use; all of a sudden the carriage stopped, and for what reason I was at a loss to know. I got from my stage seat and went to the engineer, to ask what was the reason? He told me he had not stopped the carriage, and he immediately applied his hands to the gauge cocks. I found there was neither steam nor water in the boiler. I immediately knew the boiler was burst; the passengers said they did not know it, as they heard no noise; and I told them I did not mean they should know it. I said I would show them that it was so; and I took the boiler from the carriage and unscrewed it, and there were four large holes that I could put my hand into. This occurred from the chambers being too thin, and they drove all the water out of the boiler, and yet there was no injury to any person. There was not one person that heard any report; there was no steam, and there was no symptoms in any way that the machine itself had burst."

Mr. Ogle, in describing his carriage, observes, "No accident from explosion can take place. We have had whole families of ladies, day after day, out with us in all directions, and who have the most perfect confidence."

The machinery of all these carriages is suspended on springs. The engines work, therefore, as smoothly as

\* Mr. Hancock has worked his boiler under a pressure of four hundred pounds a square inch; his average is from 60 to 100. Mr. H. mentioned an instance of the little noise which was made in working his engine. He watched near an hour in London for a friend of his, during which time the machine was at work; and though there were hundreds of people walking round it, they appeared not to know it was working. There was no noise at all in the machinery, "and you could not," says Mr. H. "unless you had gone to the back, know that it was working."

if they were fixed on the firmest foundation. Indeed, it is stated in this evidence that the vibration or jar is much less in these vehicles on common roads, than on a rail way.

## BRANCH DRAFTS.

The Globe of Saturday contains the following important Circular of the Secretary, by which it will be seen, that after the first of January next, the drafts of the Branches of the United States Bank will not be received in payment of public dues.

### CIRCULAR.

*To the Collectors of the Customs and all Receivers of Public Money.*

Whereas, by the act of Congress passed 31st July, 1789, it is provided "that the duties and fees to be collected by virtue of this act, shall be received in gold and silver coin only," and, by a usage under that act and a similar one, as to the payment for public lands, it was customary to receive only specie and the notes or bills of Banks redeemable in specie, until 1814; and after a different practice, adopted in 1814, Congress, on the 30th April, 1816, resolved, "That from and after the 20th day of February next, no such duties, taxes, debts, or sums of money accruing or becoming payable to the United States," ought to be collected or received otherwise than in the legal currency of the United States, or Treasury notes, or notes of the Bank of the United States, or in notes of Banks which are payable and paid on demand, in the said legal currency of the United States."

And whereas, the practice under that resolution conforming to its provisions, till January 21st, 1828, when permission by this department, under certain assurances from the Bank of the United States was given that drafts or checks of that Bank and its branches, should be received for the public dues; though said drafts or checks were not notes of the Bank, not being, like notes, signed by the President and Cashier thereof; nor originally made payable to bearer; not according to the subsequent decision of the Supreme Court, coming within the description of a note or bill.

And whereas Congress have never authorised the issuing of such drafts for the purpose of circulation as currency, and have refused, though urgently and repeatedly requested, to permit the issuing even of notes of the Bank of the smaller denominations, so signed; and the great extent to which the said drafts of small denominations have been put in circulation, as currency, seeming to be directly repugnant to the spirit of the act incorporating the Bank, and of the subsequent proceedings of Congress; and doubts having arisen as to the legal liability of the Bank to redeem the said drafts in specie, under the penalty provided in the charter for the non payment of its "bills, notes or obligations," and the counterfeits of the said drafts having become very numerous, and difficult of detection, and those who sell or utter them, being likely to escape punishment in consequence of questions which arise in prosecuting them under the said charter, it is, therefore, deemed proper, in order that the clearly expressed views of Congress should be enforced, and the agents of the Department protected from risk and losses by said drafts, to revoke the permission granted in 1828; but with a view to give due notice to the community and Bank, of the contemplated change, not to allow the revocation to take effect till the period hereafter mentioned.

Hence, in conformity to the requirements of the aforesaid acts and joint resolution of Congress, all Collectors of the Customs, and all Receivers of Public Money, are hereby enjoined, that, after the 1st day of January next, they shall not receive in payment of duties or of public lands, any coin or paper except such as is described in said resolution, viz: "the legal currency

of the United States, or Treasury notes, or notes of the Bank of the United States, or notes of Banks which are payable and paid on demand in the said legal currency of the United States."

LEVI WOODBURY,  
Secretary of the Treasury.

Treasury Department, }  
Nov. 5th, 1854.

### RAIL ROADS AND CANALS, &c.

The following alludes to the article copied into our paper on page 283, respecting our rail road and canals and the Allegheny portage—and renders a tribute of justice to Mr. Robinson, which we were under the impression, was due to him, when we published the articles; but we had not then the opportunity to refer to the documents to substantiate his claim. We now take pleasure in referring to his reports on the subject, Vol. VII. page 198—also Vol. V. pp. 97 and 116.

The writer of the above pays a deserved compliment to Mr. Sylvester Welsh, the Engineer under whose directions the Allegheny portage has been executed.—He is mistaken, however, in ascribing to Mr. Welsh the original plan and location of the work. The credit of these belong to Moncure Robinson, who is at present engineer of the Danville and Pottsville rail road, and whose tried skill and indefatigable industry has placed him at the head of his profession in this country. More than a year was spent by the latter gentleman in exploring and surveying the Allegheny mountain; fixing the locality of the inclined planes, and preparing exact plans and estimates of the whole work. Upon his voluntary retirement, Mr. Welsh was employed to execute the outline thus carefully and judiciously laid out.

In connection with this subject, we would mention a fact, that goes farther than any other with which we are acquainted, to demonstrate the value of our route to Pittsburg, and its decided advantage over every other mode of communication between the Atlantic and the great Western region. Within the last ten days, four vessels loaded with goods for the west, have arrived here from Baltimore, and their cargoes have been forwarded to Pittsburg by the Transportation Line of Messrs. Leech, Roberts & Toland. Another vessel from Boston is daily expected with a similar freight, which will be immediately despatched in the same direction.—*Commercial Herald*.

### DANVILLE AND POTTSVILLE RAIL ROAD.

The Danville and Pottsville rail road passes directly through the anthracite coal region, connecting, by a short passage over as rugged a country as we ever saw, the Schuylkill and Susquehanna valleys. But its chief importance consists in its forming one important line in a chain of improvements which will ere long extend from Philadelphia to the Ohio and Lake Erie. The Schuylkill Navigation, from Philadelphia to Pottsville is the first link, (and it is in contemplation to construct a rail road also between the same points;) the Danville and Pottsville rail road is the second link, which brings it to the junction of the North and West branches of the Susquehanna at Sunbury; the West branch division of the Pennsylvania canal commences, and extends already up to Dunstown, on the border of Centre county, which is the third link; and the fourth and last link is the connection of the West branch with the Allegheny, a link of no great length, and presenting no such obstacles as have just been overcome between Pottsville and Sunbury. That this will be accomplished at no distant day, is we believe, beyond a doubt. This

route, throughout its whole extent, traverses the richest and most diversified mineral region in the United States, and one possessing incalculable water power.—There is no calculating the extent to which manufacturing might be carried on along this route, provided it were open at both ends. The new village of Farandsville, is but a small sample. Lycoming, Centre, Clearfield, Jefferson and Armstrong counties, abound in iron, coal, limestone, lumber, and water power; but they have no good access to the great western market—the Juniata and Conemaugh are too far south to accommodate them; and nothing but a connection either by canal or rail road between the West branch of the Susquehanna and the Allegheny ever will develop the vast resources of this country. It is, moreover, the most direct route between Philadelphia and Lake Erie. It may appear extravagant at first view; but a little examination will show that it is already far advanced towards completion—what remains to be done is trifling compared with what has already been done.

We do not wish to see an immediate commencement of this work—this would be premature; but on a chess board we always make one move with an eye to the next, so we would like to see our public agents take this matter into their eye before they make the important move of extending the Pennsylvania canal to Lake Erie. If the Allegheny route is adopted, and the river improved, one little move more will secure the great object above stated; but if not, its accomplishment will be rendered very doubtful, and, if ever accomplished, will be at a heavy expense. The important but isolated section of the state above mentioned, has strong claims upon the munificence of the commonwealth; and as we think we have clearly shown that the improvement of the Allegheny, and the selection of it as the route by which the Pennsylvania canal shall be connected with Lake Erie, will be an important step towards the attainment of this great object, we do hope that it will receive due consideration.—*Kittanning Gaz*:

### OBITUARY.

Died, on the 28th October, in this borough, POLLY BUTLER, aged 73 years, relic of Lord Butler, Esq. who died in 1824, and daughter of the late Abel Peirce, of Kingston.

In childhood she suffered with the other early settlers, the hardships incident to the first establishment made in the valley; and at the great flood in 1785, Mrs. B. then Miss Peirce, was one of those who, when the lower part of the house was filled by water, took refuge in the chamber, and driven from thence in the night by the rapidly raising and rushing water, sought safety from a chamber window in a boat, which they fastened to the tops of trees, and in this perilous and exposed situation, remained, till daylight and help came to their rescue. Two years ago, partly on account of declining health, but more especially to visit her son, the Rev. Zebulon Butler, settled at Port Gibson, Mississippi,—Mrs. B. accompanied by her daughter, went to New York, and from thence sailed to New Orleans, and thence up the Mississippi in steamboats.

*Wyoming Herald*.

**COAL.**—A vein of coal has lately been discovered twenty-two miles above this place, on the western side of the Susquehanna river, opposite to Millersburg, not far from the bank. Workmen have been for some time digging, but found nothing but indications of coal until last week, when a vein of good coal, of several feet in thickness, was discovered. This coal is but 84 miles from tide water by the way of the Susquehanna.—*Harrisburg Intel*.

**QUINCES.**—A huckster in our market, (Philadelphia) recommended the other day, some quinces, by stating that "these Squinches came nearly 300 miles by the canals!"

From the National Gazette.  
LITHOTRIPSY.

November 4.

Among the pamphlets on our table is one of 19 pages, entitled—"An account of Six Cases of Stone in the Bladder, in which the operation of *Lithotripsy* was successfully performed by Dr. J. Randolph, one of the Surgeons of the Philadelphia Alms House Infirmary." We deem this subject of so much interest for the cause of humanity, and of so much consequence to the surgical repute of Philadelphia, that we have given attention to the details of all the cases, and asked the opinion of Dr. Physick, who was present at some of the operations. This first of American surgeons confirms fully Dr. Randolph's statements of his perfect success, so that we think ourselves warranted in congratulating the operator on his having achieved what should impart a consolatory confidence to all who are concerned in the safe and easy removal of the dreadful malady in question. Dr. Randolph has followed the example of Baron Heurteloup in substituting the term *Lithotripsy*, for *Lithotomy*, as directly expressing pulverization. The American operator observes,

"It has been stated, and that too by some who profess themselves friendly to *Lithotripsy*, that this operation will be found applicable to a small minority only of the cases of stone. The ample experience of the European gentlemen engaged in the performance of this operation, backed also by my own limited observations, has led me to a very different conclusion. I believe that of the cases of stone, in adults, eight out of ten will be found suitable to the operation of *Lithotripsy*. Stone, occurring among children, I do not take into consideration, because in them the operation of *Lithotomy* is comparatively so safe that I do not think it requires a substitute."

The case related in the following article is one of those which Dr. Physick witnessed, and which he considers as conclusive.

*Lithotripsy*.—Our worthy townsman, Mr. David Hays, has returned from Philadelphia, whither he went in the early part of October, for the purpose of seeking relief from one of the most distressing maladies to which human nature is subject, namely, stone in the bladder.—The operation of *Lithotripsy* was successfully performed by Dr. J. Randolph, of that city, who, by this method, effected a complete cure in the course of two weeks.—The stone was extracted without making use of any cutting instrument whatever. Mr. Hays states that he suffered very little pain from the operation, and that he was not confined to bed a single day by sickness, which, considering that his age is three score and ten, is certainly high evidence of the practicability and value of the operation.—*Newark Daily Advertiser*.

BEARS.—The emigration of these animals has given rise to amusement, as well as employment to the lovers of sport and also some interesting adventures.

A Pittsburg paper makes mention of a rencounter between a bear and two boys. The bear appears to have labored under a great disadvantage, as it was not upon its natural fighting field, terra firma, but was swimming the river, and consequently could neither retreat, nor fight upon equal footing with its adversaries. We have it in our power to make mention of a combat, of a nature rather more thrilling and equal; in which the parties were similar to those mentioned in the Pittsburg paper, viz: a bear and two boys, which happened about twenty miles to the East of this place.—The boys were of about the ages of twelve and fifteen. It appears that they discovered Bruin in a field, and immediately commenced a regular attack with clubs, and actually succeeded in killing him, without receiving any particular injury. But scarcely had they completed their slaughter and commenced bearing away their prize when they found themselves pursued by another

—not wishing a second combat, they left their booty, to be carried off on a more suitable and safe occasion, and retreated. Another amusing incident occurred about five miles on this side of Franklin. A man had a fine hog stolen and resorted to the following method to catch the thief. Proliting by the well known fact, that Bears are excessively fond of honey, as an article of food, he placed some in a spot which he knew was visited by his troublesome guest, strongly mixed with whiskey. The consequence was that the Bear ate it and became so intoxicated as to be unable to use his feet. In this situation it was discovered by the injured party. He instead of immediately despatching the thief, now completely in his power, commenced vexing it, which he continued for some time, supposing that the effects of the liquor would always remain. But through rage and time, the Bear became sober, and before the man was aware of his intentions, he found himself at full length on the ground, having received a blow on the side of his head, by the paw of his supposedly secured enemy, in return for injuries received, and whose complete escape was effected before he regained his feet.—*Crawford Messenger*.

From the Franklin Intelligencer.  
DARING ENTERPRISE.

On Friday, the 3d of Oct. as Mr. Elhanan W. Siverly, and Mr. John Witherspoon, were ascending the Allegheny river in a canoe, between Siverly's Island and Horse-Creek Eddy they discovered an enormous bear just entering the verge of the river, in all probability with the design of ferrying himself across.—Thinking to have some sport with his Bearship, these daring fellows went in rapid pursuit, without any other defensive weapons than two old blunt socket poles, and among other articles of their loading, an unwieldy spindle for Siverly's grist-mill. Bruin cast many a malignant glance at his visitors, and so soon as the canoe came within reach, his paws seized it for the salute of a fraternal hug. Here began the combat—Siverly guided the canoe, and with his well known dexterity in that art, defeated every attempt of Mr. Bruin's to hug the fragile craft, while Witherspoon fought with his socket pole. Bruin as yet, seemed to have the best of the battle; and was certainly less exhausted than his assailants. A drifting piece of plank about ten feet long was seized—it came down upon the head of Bruin, with the concussion of a battering ram. It would sonze him to the bottom of the river—the old warrior would emerge, apparently much refreshed by the adventure, and with an eye and action more determined to destroy his enemies than ever. Witherspoon became exhausted—Siverly urged the chance of trying his hand,—he seized the iron spindle, and with a strength peculiar to his arm, saluted Bruin on the head with the butt end; this was carrying the joke farther than smutty calculated upon—he surrendered, indeed—for who would suppose he could carry on the warfare with his skull and brains crushed into one undistinguished mass of ruin. Bruin was towed ashore, skinned and divided among those present; who uniformly believed that his Bearship entire would weigh fairly 400 pounds. A hind, and a fore foot were cut off—they are now beside me—one is 8 inches long, 4½ wide, 2½ thick—the other 7½ inches long, 4 wide, and 2½ thick.

TOWANDA, NOV. 1, 1834.

BEARS.—We learn that a small child in Tioga county was the other day seized by a bear whilst in a field with the cows near the house, and before assistance could be rendered by some men who were in sight, but at some distance, the child was almost totally devoured.

An acquaintance of ours in Smithfield was seized and considerably mangled lately by a wounded bear of which he with others was in pursuit. He was saved by the timely interference of his comrades.—*Northern Banner*.

**WILLIAM PENN.**—A man is now living in Bucks county, Pa. by the name of Preston, whose grandmother died in the year 1774, and had seen William Penn, when he first landed at or near where Philadelphia now stands. He stated that his grandmother informed him that when the ship in which Governor Penn sailed came up to the Neshaminy, he was met by the Indians, and that the masts struck the trees of Levede's hill the present navy yard. She said that the white people had prepared the best entertainment they could for the Governor and his family: the Indians had done the same, William Penn walked with the Indians, sat down with them on the ground, and ate with them roasted acorns and hominy; they pleased them so, that they began to show how they could hop and jump; that William Penn stepped up and beat them all.—Such wise complaisance won and secured their friendship and affection for him during his life.

**IRON CASTINGS.**—In passing through the Exchange, our attention was arrested by an Iron Casting of the *LAST SUPPER*, after Leonardo de Vinci's celebrated picture. This casting has recently been presented to the directors of the Exchange, by DANIEL M. KEIM, of Reading, in this State. It was made at Windsor Furnace, the property of Messrs. Jones, Keim & Co. and we learn was cast from the *ore in common sand*, without any subsequent finish having been bestowed on the Figures. Taking these facts into view, it will certainly compare creditably with the far famed Berlin casts of the same subject. The superior smoothness of the latter, is alone tributable to their having been cast from *refined iron*, and then carefully retouched and cleaned by a good artist, after which the whole surface is covered with a black liquid or Varnish, that effectually hides any asperities or roughness that may remain.

The specimen in the Exchange, we are assured, came direct from the hands of the moulder, having merely been *oiled* to darken its surface in order to aid in giving relief to the figures.

We believe that the enterprising proprietors of Windsor Furnace have been the first in this country to attempt and bring to perfection castings of this description. Many of our public Institutions are already in possession of specimens of their taste and skill.—*Commercial Herald*.

**BEAVER CANAL.**—The work on the Beaver Division of the Pennsylvania Canal is now about completed, and is navigable from the Ohio to the head of the line.—Several boats have passed through the lower locks, and the communication with the river is complete. The work will bear comparison with any other in the state, or the Union; and is quite creditable to the engineer (Dr. Whippo), who has had charge of the line. There are now four or five boats that run daily from the mouth of Beaver to Newcastle; and we learn that they are all doing a fair business. They are connected with steam-boat lines to Pittsburg; and every facility is afforded to the transmission of freight and passengers. The produce and merchandise that has heretofore been wagoned to and from the Western Reserve, now find a cheaper and more expeditious means of transportation on the Beaver Canal and Ohio Canal.—*Western Argus*, November 7.

**CHOLERA.**—The Miner's Journal states that several cases of Cholera have occurred on the line of the canal below Reading.

**GREAT SPEED.**—One of the most extraordinary instances of rapid travelling on record, occurred on Thursday last, between New York and Philadelphia; by way of the Camden and Amboy rail road. The distance, by this route, is ninety-four miles, which was accomplished in *four hours and three quarters*; or a frac-

tion over three minutes to the mile, and about twenty miles an hour. It must be taken into consideration, also, that a part of the conveyance is by water, which, owing to circumstances beyond human control materially retarded the passage.

When the route by Trenton, which is ten miles shorter, is in operation, it is confidently anticipated, owing to the straight and level formation of the road, that the distance can be travelled in two hours and three quarters, or about thirty miles per hour! The water conveyance by this route, will be so short as scarcely to present an obstacle. What an extraordinary improvement it will be in the science of locomotion, when New York and Philadelphia shall be brought within *one hundred and sixty-five minutes'* ride of each other!

The utterer of such an idea, twenty years ago, would have been declared a fit object for the lunatic asylum.

**REAL ESTATE.**—On Monday evening, at the Merchants' Exchange, the Alms House Square, bounded by Spruce and Pine, and Eleventh and Twelfth streets, was offered at public sale, by C. J. Wolbert. The sale was numerously attended; after some spirited bidding, the property was knocked off at *one hundred and twenty-six thousand dollars*. Terms, one-third cash, one-third in one year, and the residue in two years with interest.

#### DIVIDENDS FOR THE LAST SIX MONTHS.

Germantown Bank,	3 per cent.
Girard,	4 "
Mechanics,	4½ "
Farmers' and Mechanics',	4 "
Schuylkill,	3½ "
Kensington,	5 "
Commercial,	4 "
Southwark,	5 "
Manufacturers' and Mechanics',	3 "
Western,	4 "
Moyamensing,	3 "
Philadelphia,	3 "
Northern Liberties,	6 "
Penn Township,	4½ "
Montgomery county,	4 "
Philadelphia Arcade,	\$1 per share.
Frankford and Bristol Turnpike,	75 cts. "
Germantown Turnpike,	\$1 "
Manayunk and Flat Rock Turnpike,	3 per cent.
Bank of Middletown,	4 "
Bank of Harrisburg,	5 "

#### THE REGISTER.

PHILADELPHIA, NOV. 15, 1834.

In the present number, we have commenced the opinion of the Circuit Court, as delivered by Judge Baldwin, furnishing a very elaborate history of acts and decisions in relation to corporations, as well in this state as elsewhere.

The first snow this season, fell on Sunday morning, the 2d inst.

On the 29th ult. five or six cars, loaded with passengers, passed over the Southwark rail road, from the Delaware to Broad street, and continued from thence, along the Columbia rail road to the bridge.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 21. PHILADELPHIA, NOVEMBER 22, 1834. NO. 359.

## RIGHTS OF UNINCORPORATED SOCIETIES.

*The Opinion of the Circuit Court of the United States, in and for the Eastern District of Pennsylvania, on the Will of SARAH ZANE, a member of the Society of Friends.—April term, 1833.*

(Continued from page 311.)

The effect of a license in mortmain is not to give a capacity to a corporation to take or hold in mortmain.

Conveyances in mortmain were good at common law. Coke on Littleton, 98, 99. Vaugh. 356. a grant in frankalmoin placed the lands in the hands of bodies which never died, the estate became dead as to the king, or mesne lords of whom they were holden; yielding neither escheats, wardships, reliefs, or other benefits; such grants were always good by deeds of private persons before the statutes, or by title of prescription, and are now good by the grant of the king. Litt. s. 140, 1. Coke on Littleton, 98. 9. Coke on Littleton, 2. b. Terms of the Law, 294. Plowden, 293. 6 Coke's Reports, 17 a.

Notwithstanding the statutes, the estate vests by the conveyance, 7 Sergeant and Rawle, 320, they are founded on the capacity of the grantee to take, so that wherever they apply, the conveyance would enable a corporation to hold at common law for its own use; for if the estate did not vest it would remain in the hands of the grantor or his heirs, as in the case of a conveyance to superstitious uses, which are merely void without incurring any forfeiture by the statutes of H. VIII. and Ed. VI.

The license therefore is only an exemption from the penalty of the statutes, Coke on Littleton, 52. b., it restores an interest, 1 Freeman, 117. It is an authority coupled with an interest enabling the grantees to acquire and enjoy an inheritance to their own use, without incurring the forfeiture, and by a renunciation of the rights given by the statutes, leaves the estate in their hands as if they had never been passed. 2 Comyn's Digest by Day, 297. B. 3. Fitzherbert's Natura Brevium 222. 495. 500. 4 Coke's Institutes, 135. Coke on Littleton, 99 a. Vaugh. 333. 356. and operates in favour of a society or body not incorporated by a charter, Vaugh. 351. 2. 7 Coke's Reports, 35. b., which is conclusive to show its previous capacity to take. All that can be required then to give the same capacity to hold as to take, and make the right to enjoy as perfect as to take an estate; is any act of the party to whom the forfeiture accrues, which is in terms, or by its legal operation, a renunciation of a right conferred by law, which binds him and protects the estate from the assertion of his claim under the statutes according to the established principles, that subsequent laws abrogate prior ones inconsistent with it, without any repealing clause, and will produce the same effect as a license in mortmain.

It is admitted that the king is bound by all acts of parliament in which he is named, so that he can exercise no power by statute, prerogative or tenure, in derogation of any right protected, or authority conferred by the statute: but generally speaking, he is not bound unless its provisions extend to him subject to these exceptions.

All statutes which provide profitable remedy for the

maintenance of religion, the advancement of good literature, and the relief of the poor, 11 Coke's Reports, 71. b. 5 Coke's Report, 14. a. b. which suppress wrong and provide a remedy for a right, 2 Coke's Institutes, 142. 69. 359. 681. or tend to perform the will of a donor or founder, 11 Coke's Reports, 72 a. 5 Coke's Reports, 14. 15. Plowden, 246. 3 Atkins, 147, bind the king though not named.

His claims to lands by escheat, forfeiture, or wardship, are subject to all rights existing before they come to his hands; the law gives him a better remedy, but no better right, than the subject from whom the land came to his hands, 2 Coke's Institutes, 573. 2 Vezey, sr. 296, 7.—Hardres, 69. 469. and the appropriate courts were authorized by the Statute 35 Henry VIII. chapter 39. Keble's Statutes, 555. 2 Ruffhead's Statutes, 324. to decide on the rights of a subject, in a controversy between him and the king, according to equity and good conscience, as between subject and subject, 7 Coke's Reports, 19. b. Hardres, 27. 176. 230. 502. Coke's Institutes, 190.

These are the principles which have given to the 43 Elizabeth its powerful effect, though it contains no repealing clause, license, or *non obstante statuto*; yet by universal consent, it has been held to repeal the statutes of mortmain, the exception of corporations in the statute of wills, and to restore the common law in all cases embraced in its provisions or which can be brought within them by the most liberal and benign construction. 1 Peere Williams, 248. Precedents in Chancery, 16. Gilbert's Equity, 137. 2 Equity Cases Abridged, 191. 3 Peters, 141.

These principles are admirably condensed by the Supreme Court in 4 Wheaton, 31, and are those by which we must consider the legislation of Pennsylvania on the same subjects; we must hold its law to bind the state, and to dispense with the forfeiture accruing to it by an alienation in mortmain, if a similar law in England would bind the king. The prerogative of a republican state, cannot be deemed in a court of justice more sacred than the jewels of a crown, or the rights of its citizens, individually or collectively, to the enjoyment of property, to be placed on a less permanent foundation than those of the subjects of a monarchy; nor can corporations be subject to disabilities here from which they are exempted by the general course of the law of England, between the spirit and policy of which, and that of Pennsylvania, there will be found a most marked difference in this respect.

In England there has always been a jealousy of their rights to hold property, here they will be found to have been favoured and protected by express provisions in the constitution and laws, while there is an entire absence of any restriction on their capacity to take or enjoy estates; there the effect of statutes has been to remove disabilities imposed by former statutes, which abrogated common law rights, here laws have been passed in affirmation of its principles, and they have been embodied in a supreme law. There courts have gone to the extent of their power, to rescue charities from the intolerant spirit of the times; here their duty is to further the benevolent policy of the people and legislature, as evidenced in all their acts.

From the first settlement of the province we find that

the uniform tenor of its laws, has been to encourage all alienations of property and to confirm its disposition, in every mode known to the law.

The act of 1705 confirmed all sales of land made under the laws of the province, and declared that no deed, grant, or assurance should be held defective on account of any want of form, of livery, of seisin, attornment, misnomer, or misrecital, but shall be good and effectual. 1 Dallas' Laws, 51, 3. 1 Smith, 31. This law has always been in force.

The act of 1711, confirmed all grants from the proprietor to any person or persons—bodies politic or corporate, to hold the same for such estates and uses as they had been sold or disposed of, notwithstanding any defects therein, and shall be expounded most beneficially for the grantees according to the words, tenor, and true meaning thereof. 1 Dallas' Append. 39, 40. This law was repealed in council in 1713, but its principles have ever been respected.

The law of 1705 declared, that all wills whereby any lands were devised, should be good and available in law for granting, conveying, and assuring the lands devised and chattles bequeathed. 1 Dallas, 53. 1 Smith, 33. 1 Dallas' Append. 26, 36.

The law of 1742 gives a remedy for the recovery "of any legacy or bequest of any sum of money" to any person or persons. Miller's Laws, 156. 1 Dallas, 449, 631. Neither of these laws contain any exception of corporations.

The rights of conscience were declared inviolable by the charter of privileges of 1701, granted by William Penn to the people of the colony: no person who lived quietly under the government and acknowledged one God, should be in any case molested, or prejudiced in his estate, because of his conscientious persuasion. 1 Dallas' Append. 8, 10; and liberty of conscience was secured by a law approved in council. 1 Dallas, 43, 4.

In 1712 an act was passed empowering all religious societies of Protestants within the province, to purchase and hold lands for burying grounds, houses of worship, schools and hospitals, and by trustees or otherwise, as they shall think fit, to receive and take grants and conveyances for the same, for any estate whatever for the uses aforesaid. All sales, gifts, or grants, to such societies or any persons in trust for them, were ratified and confirmed according to their tenor and meaning, and of the parties concerned. Gifts to the poor of these societies, or for their use, shall be employed only for the charitable uses for which they were given, according to what may be collected to be the true meaning of the donors or grantors, notwithstanding any failure in these gifts, grants or bequests. Laws by Bradford, 160. This law was repealed in council, twice enacted, and as often repealed.

In 1710, the judges of the county court were made a court of equity authorized to proceed according to the rules and practice of the high court of Chancery of Great Britain, and an appeal was given to the Supreme court, with power to decree as may be agreeable to equity and justice, Bradford's laws, 103, 20. Though this law was repealed in 1713, and courts of Chancery discontinued in 1736, the rules and principles of equity have always formed part of the common law of the state.

The sixth article of the charter to Penn, provided that the laws for regulating and governing property within the province, as well as for the descent and enjoyment of lands and goods and chattles, should be and continue the same as they should be for the time being, by the general course of the law of England till the same should be altered, 1 Dallas, App. 3.

The preamble to the act of 1718, recites that it is a settled point that as the common law is the birth right of English subjects, so it ought to be the rule in British colonies. But acts of parliament have been adjudged not to extend to these plantations, unless they are particularly named in such acts, 1 Dallas' Laws,

129, 33. or as has often been declared by the Supreme court of the state, unless they are convenient, adapted to the circumstances of the colony, or have been in force by adoption, usage, or long continued practice, in courts of justice. 1 Dallas' Reports, 67, 74. 3 Binney, 596-7. 1 Dallas' Laws, 722.

After repeated attempts to pass a law in favour of religious societies, which would accord with the spirit of the colony, one was finally approved in council.

The act of 1730-1, confirmed all sales, gifts, and grants of lands to any persons in trust, for the use of any Protestant religious society, for scites of churches, houses of religious worship, schools, alms-houses, and burying-grounds, made before the law; it also contained a provision which made it lawful in future, for any such society within the province to purchase, take, receive by gift, grant or otherwise, for the above specified uses, and purposes, and for any estate whatsoever, and to hold the same for the said uses, in fee, provided that they should not take land for their maintenance or support, or for any other uses than those specified, 1 Dallas' Laws, 270, 3.

The constitution of 1776, declared in the first section of the bill of rights, "That all men have an equal right to acquire, possess and protect property," and in the eighth, "That every member of society had a right to be protected in the enjoyment of life, liberty and property."

2. "That all men have a natural and unalienable right to worship God according to the dictates of their own conscience and understanding."

3. "Nor can any man, who acknowledges the being of a God, be justly deprived or abridged of his civil right as a citizen, on account of his religious sentiments, or peculiar mode of religious worship, and that no authority is or ought to be vested in any power whatever, that shall in any case interfere with, or in any manner control the rights of conscience in the free exercise of religious worship."

In the frame of Government, section 45. "And all religious societies or bodies of men, heretofore united, or incorporated for the advancement of religion or learning, or for other pious and charitable purposes shall be encouraged, and protected in the enjoyment of the privileges, immunities, and estates which they were accustomed to enjoy, or could of right have enjoyed under the laws or former constitution of the state."

Section 46. "The declaration of rights is hereby declared to be a part of the constitution of this commonwealth, and ought never to be violated on any pretence whatever." 1 Dallas' Appendix, 55, 60. Convention of Pennsylvania, 55, 64.

The first law passed on the change of government, declared the province laws in force till altered or repealed; also the common law, and such parts of the statute laws of England as had been before in force.—"And so much of any law or act of Assembly as declares, orders, directs, commands any matter or thing repugnant to, or inconsistent with the constitution, is hereby declared not to be revived, but shall be null and void, and of no force or effect." 1 Dallas' Laws, 722.

The constitution of 1790, in Article 7, Section 1, provides, "That the Legislature shall as soon as may be, provide by law for the establishment of schools throughout the state in such manner that the poor may be taught gratis."

Section 2. "The arts and sciences shall be promoted in one or more Seminaries of Learning." The 44th section of the old constitution contained similar provisions, though not so full.

Section 3. "The rights, privileges, immunities and estates of religious societies and bodies corporate, shall remain as if the constitution of the state had not been altered or amended."

The three first sections of the bill of rights are in

in substance, the same as in the old one. The third concludes—"and that no preference shall ever be given by law to any religious establishment or modes of worship."

Section 26. "To guard against the transgression of the high powers which we have delegated, we declare that every thing in this article is excepted out of the several powers of government, and shall for ever remain inviolate."

In the first clause of the schedule it is ordained, "That all laws of this commonwealth in force at the time of making the said alterations, and amendments in the said constitution, and not inconsistent therewith, and all rights, actions, prosecutions, claims and contracts as well of individuals as of bodies politic, shall continue as if the said alterations and amendments had not been made." 3 Dallas' Laws, 32. 36. These provisions and the law which immediately followed the adoption of the constitution are a direct negative on the existence of any spirit of policy adverse to corporations.

In 1791, an act was passed "to confer on certain associations of the citizens of this commonwealth, the powers and immunities of corporations, or bodies politic in law." The preamble recites the reasons to be the saving time to the legislature, in enacting laws to incorporate private associations, and the convenience of individuals desirous of incorporation—and the law provides: That when any number of persons, citizens of the state, are associated, or mean to associate for *any literary, charitable, or religious purpose*, they are empowered to obtain a charter of incorporation, subject only to the following conditions. To state in writing the objects, articles, and conditions of their association, and if the attorney general and the Supreme court shall certify their opinion that they are lawful, the governor shall order it to be enrolled; and the persons associated become an incorporated body in law and in fact; to have continuance by their corporate name and title.—They are authorized to execute the usual corporate powers, and to make by-laws and ordinances, provided they are not repugnant to the constitution and laws of the United States, of this state, or to the instrument on which the corporation was established. The corporation and their successors, shall be able and capable in law, according to the terms and conditions of the instrument on which they were established, to take and hold lands, money, goods and chattles given them, according to the articles and by-laws, or the will of the donor, provided the clear income does not exceed five hundred pounds yearly.

"And, whereas bequests and legacies may be made to *public institutions* of which they may not derive the benefit intended from a want of information," it is directed that when a will is brought to the Register's office to be recorded, which shall contain a bequest or legacy to a *public incorporate body*, he shall give them notice within six months, of the nature and amount of the legacy, and the name of the executor." 3 Dallas, 40. 43.

The law of 1818, enacts that where any lands are holden in trust for *any religious society*, or for *any number of persons for the purpose of public worship or schools*, or to be used as a *burying-ground*, or for *charitable purposes*; or where any estate of a personal nature, is or may be vested in any person or persons, to be applied by them to any *religious, literary or charitable use or uses*, and the trustee or trustees neglect or abuse such trust or trusts, the Supreme court, or court of Common Pleas, on complaint made, may call on the trustees to answer, and if on hearing, the court are satisfied that the trust has been neglected or abused, may and shall remove the trustees, and appoint others in their place, who shall be vested with the rights and powers of the former trustees, and give such security as is required.

Section 2. The court shall have the power and jurisdiction of compelling the trustees to account before the court or auditors. Purdon, 167. 7 Vol. L. P. 43—4.

This law was followed by the act of 1825, "To prevent the failure of trusts." The Supreme court is authorized to grant relief in equity in all cases of trusts, so far as regards the appointment of trustees, either in consequence of the death, infancy, lunacy, or other inability, or where a trustee renounces or refuses to act, or one or more dies, or become *non compos*, and a joint action is requisite, and to compel a conveyance of the legal estate, when the trust has expired.

On the application of any person, interested in the execution of the trust, the court may appoint a trustee, having regard to the objects of the trust as fully as a court of equity can do, and the rights of the former trustee shall vest in him; on the application of trustees the court may remove them and appoint others.

The act of 1828 confers the same powers on the courts of Common Pleas, District, and Circuit courts. Purdon, 858-60.

From this summary of the legislation of Pennsylvania, it appears to have partaken of the spirit of its successive constitutions, and to have been constantly progressive, in the completion and perfection of the great system of its founder, each succeeding law being more liberal in its principles, and more expanded in its provisions.

The principles of the charter of Penn continued in force and protected all religious societies in the enjoyment of their rights of worship and property in their houses of devotion, after the repeal of the act of 1712 by the council, and the passage of the act of 1730, as before.

In 1733-4, Governor Gordon informed the council that a house had been erected in Walnut street for the exercise of the Roman Catholic religion, in which mass was openly celebrated, contrary to the laws of England, particularly to the statute 12 William III., which extended to the colonies. The council were of a different opinion, and declared that the Catholics were protected by the charter of privileges and the law concerning liberty of conscience: but they referred the subject to the Governor, that he might consult his superiors at home. No other proceedings, however, took place. Gordon, 216.

This opinion of the council accords with the declaration of William Penn to the members of the assembly in 1701, "That he had justly given privileges, the precedence of property as the bulwark to secure the other." 2 Clarkson's Life of Penn, 203; it was a rule of property, and the basis of the usage and common law of the state; the opinion of the council was the practical exposition of the charter, as understood and acknowledged, of which there cannot be a stronger case than the one that occurred. The 11 and 12 William III., chapter iv., prohibited the celebration of mass in any of the *dominions of England*, under a penalty of perpetual imprisonment. 4 Ruffhead's statutes, 41. If this statute included the colonies, it was repealed by the charter; if it did not, there was no law professing, or attempting to interfere with it as a fundamental law of the colony.

The list of laws rejected by the king in council, shows the constant struggle between the policy of the colony and mother country. Vide Hall and Sellers' Laws, 21. 57. 67. 99. 125. 193. 199. 276. Miller's Laws, 16 74. 153, which ended only with the revolution. The usage continued, in despite of the efforts of the king and council, to prevent it from having the sanction of a law, and the provisions of the constitution, were as broad as the usage: its phraseology is adapted to the inconveniences which existed, and its provisions afford a remedy commensurate with the mischief arising from the want of a legal sanction to rights, indispensable to the enjoyment of practical liberty of conscience, as a bulwark to property.

In the case of the Cedar Spring Congregation, the trust did not depend on the enabling provisions of the statute, but on the custom of the province, as stated in

*Witman vs. Lex, Methodist Congregation vs. Remington.* Vide 6 Binney, 59, &c.

The evidence of this custom appears in all the acts for granting charters, and in the law of 1791, in relation to the lots held by the Quaker societies in Front street, and at the corner of Fourth and Arch streets. 3 Dallas' Laws, 46-7.

The proceeding before the council in 1734, is unequivocal evidence of the claim of right by the Catholic societies, according to the usage under the charter of 1701; so that we have from the most authentic sources, full evidence of the existence of a custom and usage, expressly saved and preserved by the constitution of 1776, which operates not only prospectively, but refers by express terms to the former constitution of 1701, so as to make the usage of the same force from that time, as it would have had, if the state had been then independent of the mother country, as she was in 1776.

Being saved by the Supreme law, the custom had the same force as the law itself, and stood on the same basis as customs, saved by Magna Charta, according to the rules of law before laid down.

The constitution of 1776 then puts the rights which could be enjoyed by the previous custom of the province on the same footing, as if they had been defined in detail in the 45th section, and the present constitution makes them perpetual. If any additional sanction could be given to them by human authority, it will be found in the first amendment to the Constitution of the United States.

"Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

This extends to the judicial as well as legislative departments of the government, and annuls all jurisdiction over the subject matter, past or future. 1 Cranch, 174. 9. 3 Dallas, 382. If the rights of a religious or literary society are derived from a contract or grant, no state law can impair their obligation, and the Supreme court have placed them under the same constitutional protection, as those of individuals. 9 Cranch, 45.—9 Wheaton, 454. 8 Wheaton, 480. 4 Wheaton, 624.

To deny to bodies united without a charter, any rights of property which could be enjoyed by a corporate body, would be in direct opposition to both the Constitutions of the State and the Union, and the custom of the province. "Incorporations were almost unknown; yet to all sorts of pious and charitable associations, in every part of the province, valuable bequests were made by those who were ignorant of the niceties of expression necessary to accomplish the object at common law. Nothing was more frequent than bequests to unincorporated congregations, without the intervention of trustees; and even where there was a corporation it frequently happened that the corporate designation was mistaken, or the trust vaguely defined. Notwithstanding which the testator's bounty was uniformly applied to the object. Surely an usage of such early origin and extensive application, may claim the sanction of a law, resting as it does on the basis of all our laws of domestic origin, the legislation of common consent. 17 Sergeant and Rawle, 91-2.

The same principle is adopted in all governments; an usage or custom is presumed to have had its origin in a law once in existence, and lost in the lapse of time, the evidence whereof being by prescription, that supplies the place of the written law, which is taken to have been as broad as the usage. The law presumed from a custom, has the same force, as one appearing on the rolls of Parliament—the only difference is in the mode of proof, and the rule that a custom shall not prevail against an act of Parliament, unless it is saved and preserved by a statute. 3 Dow's Parliamentary Cases, 112. Anstruther, 614. 1 Dow's Parliamentary Cases, 322.

The Supreme law of England, and the states of this Union, which have no written constitutions of govern-

ment, is proved only by legislative usage, which is the evidence of their constitution and supreme law. 3 Dallas, 400. 2 Peters, 656, 7. 6 Peters, 714, 15.

On whatever subject a known and recognized usage exists, it forms the law of the case, and controls all affirmative statutes, and the rules of the common law—as a general or local law according to its nature. Vide 6 Peters, 715, and cases cited; the reason is obvious—it is founded on a law presumed from the prescription. This presumption is not, that such a law ever in fact existed, but "it is adopted as a general principle to take the place of individual or specific belief." 12 Vezey, 265, 6. 10 Johnson's Reports, 380, 6. Wheaton, 504.

Though the party claiming by prescription produces his title, and it is worth nothing, the court will direct the jury to presume another grant subsequently; all shall be presumed to be done, which shall make the ancient appropriation good, and the right shall be presumed from the prescription, if it could have had a legal beginning. 12 Coke's Reports, 5. Cowper, 169, 10; the same rule applies to the franchises of a corporation, 4 Mod. 55. 1 Saunders, 345. 1 Roll's Abridgment, 512, "for whatever may commence by grant, is good by prescription." Where possession has been long held under a claim of right, to the exclusive enjoyment of the lands of the crown, a patent charter, or grant of the king will be presumed. 1 Dow's Parliamentary Cases, 322; the same rule is applied in this country, 14 Mass. Rep. 534., though the possession was taken and held under a defective title. 4 Peters, 506, 7. 5 Peters, 439, 40.

The principle has been applied in Pennsylvania to a religious society, which had been long in possession of a piece of ground, on which they had erected a church, used it for public worship, and occupied an adjoining piece for a burial ground, and another piece for the free passage of the congregation, and the accommodation of horses and carriages, according to what the Supreme court declared the common usage. This possession was held to be sufficient to enable the society "to recover an ejectment, and sufficient for a presumption, that the commonwealth had granted the land to the predecessors of the plaintiffs, or made a promise of a grant which would establish a right of pre-emption." 3 Sergeant and Rawle, 510, 11. *Mather vs. The ministers of Trinity Church and others.*

Either presumption is sufficient for all the purposes of this case: the only difference between a grant and a pre-emption is, the payment of the purchase money, which must precede the formal consummation by patent; but when paid, the right to a patent, and the enjoyment of the estate against the commonwealth, is complete. We may now assume these principles to be settled, that usage and customs have the force of laws—that those which are saved and preserved by the constitution of this state, are its supreme law—and that rights declared in the constitution, or which have been, or could be enjoyed according to customs or usage, saved and preserved, neither depend on legislative discretion, or can be impaired, much less forfeited by legislative power. It follows that no charter can be requisite to give a capacity already existing by usage, or asserted in the bill of rights or constitution, or a dispensation from a forfeiture, which no law was competent to enforce or prescribe.

Hence the course of the Legislature has been in granting special acts of incorporation to religious, literary, and charitable societies, strictly in the spirit of the constitution, to superadd to their constitutional rights, the privileges, franchises and immunities of corporations, to confer the powers of corporate bodies, "to further their objects and charitable designs," to put all religious societies on the same footing, as to the encouragement and protection afforded by the constitution, Vide Bradford's Laws, 11. 23. 52. 89. Laws of 1790, 1785; by imparting to them such powers, as would

enable them to manage their corporate concerns, and enjoy their corporate property by their own by laws and officers, and to assert their rights in their corporate capacity, not to give the capacity to take property, or to release it from the forfeiture of mortmain.

Charters were given to Catholic societies, "to enable them to manage the temporalities of the church, as fully as any other religious society could do." Laws of 1789, 456. 532. Vide 9 Cranch, 49. 326, 7.

A lottery was granted for the benefit of the Hebrew congregation, in order to save their property from sale by execution,—the preamble contained this recital—"And whereas, it is just and proper that all religious societies should be protected, so far as is consistent with the principles of the constitution." Laws of 1790, 310. 2 Dallas' Laws, 817.

In most of the laws granting charters, there is a recital to this effect, "that it is just and right, agreeably to the true spirit of the constitution, that the prayer be granted," or, "that this House is disposed to exercise their powers for the encouragement of all pious and charitable uses." Bradford, 37. 223. 407. Laws of 1789, 189. 198. 225. 285.

They are retrospective to the property held by the society, before the incorporation, in some cases by deeds in trust for their use, in others, to the society, by their name of association only, of which there are more than thirty instances in Bradford's Laws, which fully establish the fact of the universal usage throughout the State, for all religious societies to enjoy estates without actual incorporation.

What expresses the sense of the legislature most unequivocally is, the law of 1789, which, after reciting the 45th section of the constitution, declared so much of the law of 1779, relating to the college and charitable school of Philadelphia, as was repugnant to the charter from the proprietor, to be void, on the ground, "That the charter gave them rights which were entitled to encouragement and protection in the free enjoyment and exercise thereof, in conformity to the will of the donor, in the same manner as it could have of right occupied and enjoyed the same under the former laws and constitution," and that the law was "repugnant to justice, a violation of the constitution, and dangerous in its precedent to all incorporated bodies, and the rights and franchises thereof." 2 Dallas' Laws, 650-51.

When such is the effect of the constitution, it certainly could not be the law of the State, that bodies united or incorporated, needed any other protection for their rights, privileges, or estates. They could be submitted to no other test than usage; and though the legislature could not be coerced to grant an incorporation, they could not infringe any right which could be enjoyed under the constitution. They might refuse them the franchises necessary to transmit property by mere succession, and to govern the society by corporate officers and by-laws; but as all the individual members were capable in law of acquiring it, no power could take it from them.

The inhabitants of a town may take in succession by a grant to their singular heirs, a private person may build and endow a house for a school, a hospital, a church, or abiding houses for the poor, without incorporation; but he could not, by his own grant, give it the corporate franchise of succession. 10 Coke's Reports, 26-7. 2 Coke's Institutes, 202. 9 Cranch, 329.

The rule of the common law is recognized and well illustrated in the preamble to the 39 Elizabeth, chapter 5, for the erection of hospitals, &c. by private persons,—the reason for which is declared to be, "understanding and finding that such good law had not taken such good effect as was intended, by reason that no person can erect or incorporate any hospital," &c. "but her majesty, or by her highness' special license, by letters patent in that behalf to be obtained." The act then

authorized the creation of incorporations by the deed of the founder enrolled in chancery, without any act of the crown, with full corporate powers and franchises, and to make any by-laws not repugnant to the laws of the kingdom. Keble's Statutes, 921. 2 Ruffhead's Statutes, 687-8.

This statute was evidently the pattern for the act of 1791, as appears by the title, the preamble and the enacting clauses.

Neither contain any restrictions on any unincorporated societies or bodies, their provisions are remedial, in order to facilitate the enjoyment of charitable donations, and the furtherance of charitable objects, by corporate franchises; to enable an individual to do, what he could not do without a law;—to give a private deed the effect of a public grant, in order to complete the pious and charitable work by the charter of the donor or founder, without a special application to the crown or assembly. Vide 10 Coke's Reports, 25 to 34. 9 Cranch, 49.

Both laws are founded on an existing right, to make the donation; and if the right of property had not been understood to have been fixed and settled, the legislature would never have interfered to secure its enjoyment in perpetuity by succession; as a continuing corporate franchise with no other limitation to the power of making by-laws, than the laws of the land, the will of the donor or founder, and the articles of association; placing the incorporation on the authority of parliament, in England, and in this state making it a contract or legislative grant, the obligation of which cannot be impaired by the state.

All the analogous legislation of England is bottomed on the right of private persons, singly or associated, to take and hold estates of inheritance by apt words of grant to themselves and their heirs, which is a common law right of all subjects who are under no legal incapacity. In this respect the law of both countries is the same;—the only difference between them consists in two particulars:

1. In Eng<sup>d</sup> and those persons who have devoted themselves to religion, withdrawn from the world, and entered into holy orders, are not deemed in law to have any civil existence until they have acquired the capacity of natural persons by the removal of the disabilities arising from their profession and the restoration of their original right.

In this state, there is no such disability; the bill of rights declares it to be the natural and inherent right of all men to acquire, possess, and enjoy property, and the constitution protects all members of society in their persons and estates; no common law disability, therefore, can obstruct the vesting of a constitutional right, and as no law can take it away, no charter is necessary to confer it or to restore what has not been relinquished or lost.

2. In England there are statutory disabilities on corporations, whereby they are less favored than individuals or bodies not incorporated; but in this State they are subject to no restraints, and in the constitution are placed on the same footing of protection as private persons or bodies united without a charter—there is of course no necessity of any law to repeal a statutory disability, or of a license by any subordinate authority, to perfect a right conferred by a supreme law.

If an act of parliament had contained the same provisions as the constitution of this State, and the statute 34 and 35 Henry VIII. had contained no exception of corporations, there could have been no doubt that any religious society could have taken an estate in fee without a charter, and enjoyed it in mortmain without a license. There can be no clearer evidence of the common law right, than the enactment of statutes to take it away, nor is any rule better established, than that an exception of a particular case is an admission that the case would have been embraced in the law or constitu-

tion if no exception had been made. 9 Wheaton, 207. 12 Wheaton, 436, 8.

The application of this rule, to the jurisprudence of this State, will furnish a solution of all the difficulties which have attended the investigation of the law of charities, and lead to results which cannot be erroneous. The reason of the law, is the law itself, and we have only to look to the reasons which call for an incorporation in England, for the want of an act of parliament, removing the disabilities of religious persons, and to bear in mind that the effect of the constitution must necessarily be that here ecclesiastics or persons in holy orders have a capacity to purchase, which is denied to them by the policy of the common law. Hence arises the necessity of an incorporation, by charter or prescription, to give them the capacity of natural persons by removing the disability, arising from their being professed men of religion, as monks, friars, and canons, who are deemed dead persons in law; but when one of them becomes a bishop, an abbot, &c., he is the head or sovereign of the house having a secular capacity, to purchase and hold land through whom the monks or the convent become as natural persons, and remain so while there is a sovereign or head. A grant to an abbot and his monks, or to the abbot and convent is good and vests the title in perpetuity; if the grant is made while there is a vacancy in the head or sovereignty, the fee remains in abeyance, but vests whenever the vacancy is filled. Perkins, section 3, 51. 55. Littleton, section 443. 655. Coke on Littleton, 263. 346. b. 9. Cranch, 47. 329. 2 Peters, 580.

The reason why a grant to monks or to a convent, who have never had a head or sovereign by charter or prescription, "that when a man taketh lands or tenements by purchase he ought to be of ability to take the same when it falleth to him by purchase." Perkins, section 505; monks have not this capacity, because they are all dead persons in law, but the abbot, who is the sovereign, &c. and this by reason of the sovereignty, for otherwise he should be but as one of the other monks of the convent, Littleton, section 655. Coke on Littleton 345. b., and the grant cannot take effect, though a corporation was made afterwards. 2 Coke's Reports, 51. b. Hobart 33. 8 Viner's Abridgement, 56. H. Perkins, 3. 4. Coke on Littleton 2. a, 3. a.

The reason of this rule shows, that it is confined to grants to persons who have no personal capacity, or civil existence; it cannot apply to natural persons, who have a common law right, guaranteed in this state, and declared inviolable, as to whom a charter could have no effect except to confer some corporate franchise which was not of right by law. There is no rule of the English law, which requires a charter, to enable a society or body of capable persons, to take and hold property in fee by proper and apt words of inheritance; any opinion to the contrary must be founded on the misapplication of the foregoing rule, as is evident from the cases referred to by the counsel in the argument of the case in 4 Wheaton, 1; and in not discriminating between the right of holding an estate of inheritance with and without proper words to convey it, and between the effect of a deed, which transmits from ancestor to heir, or a charter which passes it from predecessor to successor.

A grant to the commonalty, parishioners, inhabitants or good men of a place, Coke on Littleton, 3. a., the commoners of a waste, Shepherd's Touchstone, 236. 7., the people of the county of O. or to associates, being a settlement of Friends at S., does not enable them to hold an inheritable estate without a charter, Perkins, section 510.; if they could take any estate or privilege it would be only for the lives of the then existing inhabitants, 2 Johnson's Cases, 323. 9 Johnson's Reports, 75., as in the case of a grant to a single person, omitting "*and his heirs.*" They are capable of taking the fee by proper words of grant to themselves and their heirs, or to another in trust for their use, 8

Johnson's Reports, 388. Shepherd's Touchstone, 337., but some person or body politic, must be named who can take by force of the grant as a mayor and commonalty, Perkins, section 64, or the church-wardens of such a church, Perkins, section 55, in ancient time, Coke on Littleton, 3. a., and now by custom. Croke Elizabeth, 145. 179.

The parishioners, inhabitants, or good men of Dale, are capable to purchase goods by such name, Coke on Littleton, 3. a.; the only reason why they cannot purchase in fee by that name is that they are not a permanent, Hobart 86, continuing body having succession; any estate conveyed to them in fee, must descend to their singular heirs, unless they have by charter, or prescription, the franchise of a body politic, which is the only thing required to enable them to hold in perpetuity by succession.

These considerations lead to the object and effect of an incorporation in England, first, to give to ecclesiastical persons the same civil capacity to purchase as other natural persons have by right; and, second, to confer the franchise of succession. In this state the first object is effected by the constitution, and the incorporation is necessary only for the second; the only difficulty then is to distinguish between the natural rights of all the members of the society which constitutes the state a body politic, and those which are conferred by charter or law on a body of men who are the members of a society united for particular purposes.

The common law requires no charter to enable a body of men in any place to purchase chattles or receive donations of money, a chattel interest, or an estate for the lives of the grantees in land by their name as a body without other words; if one is necessary it can be only to give them some privilege, immunity or exemption from the rigor of the common law, so as to make them as a natural person capable of enjoying an estate in fee without words of inheritance.

A corporation is a permanent thing, that may have succession, an assembly of many into one body. Terms of Law 123. An artificial body constituted of several members, united by its franchises and liberties which form its ligaments and are its frame and essence, Lilly's Practical Register, 439, which never dies and exists only in its political capacity, 1 Bl. Com. 468. 70. which unites and knits them together as a natural person. ib. 272. Or a person who is made by policy and fiction of law, a body politic, with the capacity of succession in perpetuity, but which exists in both a natural and political capacity. Wood. Inst. 109. 1 Bl. Com. 468. 70. The corporation aggregate which never dies and can take only in one capacity, holds in perpetuity by a grant to itself without words of succession; but a corporation sole existing in both capacities, takes only for life, unless the word successors is added, so as to denote the intention to convey to him in his politic capacity of succession. Coke on Littleton, 8. 9, 94. a. 96. b. 250. Perkins, section 240. Plowden 496. Wood. Inst. 111. Terms of Law, 124. Croke's James, 432. Succession is a corporate franchise, by which property passes from predecessor to successor, as it does from ancestor to heir, by inheritance, Terms of Law, 123. 4 Coke's Reports, 65. a.; succession is not a word of inheritance; a grant to a private person and his successors, carries only a life estate, succession must be granted by a charter from the crown, or a law making the grantees a corporation, so that their rights devolve on their successors by virtue of the franchise.

The object and effect of the incorporation, is to create the artificial person with the same capacity as the natural person: whenever it exists as a perpetual body, in the exercise of this franchise, its uninterrupted enjoyment is evidence of a charter presumed to be lost, and it is a corporation in fact and in law. Perkins, section 34. Coke on Littleton 132. b. 2. Comyn's Digest by Day, 300. 1 Saunders, 345. 1 Modern

Reports, 55. The word successors is not in all cases indispensable to vest an interest by a grant or an obligation in the successor of a sole corporation; as where a grant is made to an abbot and his convent, to hold in frankalmagne, the tenure imports succession, and as the celebration of divine service, and free alms are continuing objects the estate is in perpetuity, as in case of a gift in Frank marriage. Litt. sect. 153. Coke on Littleton, 93. b. 94. a. S. P. 3. Peters, 146. 7.

So where by a local custom the right passes to the successor, though not named: as the chamberlains of London. Terms of Law, 124. 1 Lilly's Practical Register, 383, 4. 4 Coke's Reports, 65 a. Croke's Elizabeth, 464. 682. Hobart, 247. 5 Comyn's Digest by Day, 17.

So of Church-wardens who are corporation by prescription throughout the kingdom, with capacity to take and hold money and chattels for the church, but not lands, yet they may hold lands by special custom in succession as a corporation. March, 67. pl. 104. Croke's Elizabeth, 145. 179. Croke's James, 532. Croke's Charles, 455. Vide 9 Cranch, 45. 53. 328, 17 Sergeant and Rawle, 92.

Neither are any particular words necessary to create the corporation; a public grant of corporate privileges is *per se* an incorporation to give the capacity of enjoyment according to the grant; as to the inhabitants of a town, to have "*guildam mercatoriam*," which unites them by the franchise, and makes them as a natural person for the purpose. 10 Coke's Reports, 30 a. 1 Rolls. Abridgment, 513. 1 Blackstone's Commentaries, 474. And as the only thing for which a charter is necessary is, to grant the franchise of succession, its actual enjoyment and exercise is *per se* evidence that it was by lawful and competent authority. 1 Bacon's Abridgment, 500. 10 Coke's Reports, 28 a. 1 Blackstone's Commentaries, 475, 9. 1 Lilly's Practical Register, 459. London itself is only a corporation by prescription. 5 Comyn's Digest by Day, 17. H.

If then the religious, literary, and charitable societies, which have existed in this state, had no other foundation for their rights of property, than the principles of the common law and long usage; they could not be disturbed for want of an actual incorporation by charter or law, and when we add to these rights, those expressly secured to them by the Constitutions of the State and Union, we cannot doubt that they are as inviolable as a charter could make them. To decide that one was necessary to enable a religious society to enjoy the sites and building for worship, for charity, or education and sepulture, and funds for the maintenance and support of poor, would be a declaration that the rights of conscience, and worship, could be made dependent on the discretion of the legislature. And if a charter could be withheld from any society, united for religious purposes, so as to impair their right of property; then a preference could be given to modes of worship; there would be a virtual prohibition of the free exercise of religion, and the sect favored by the legislature, would be in substance a religious establishment.

Connecting with the whole course of the legislation of Pennsylvania, the well known fact which appears in the record in this cause, that the societies of Quakers have never been incorporated; it is not credible, that their right to hold their places of worship and charity, and to enjoy donations of land and money, is a mere shadow without a charter in fact. In our opinion, they have had from 1701, and yet have, a charter more firm than any patent or law can create; the great charter of Penn, which was the basis of the usage and custom of the Province, and by its incorporation into the supreme law of the state, is the rule and standard of right by which our judgment must be guided.

The law of 1777 repeals all laws inconsistent with its provisions, whether those of the mother country or the colony; and declares that laws not inconsistent with it shall remain in force, as well as such statutes and

common law in England as have been heretofore adopted.

The laws of 1705, in relation to deeds and wills which have no exception of corporations, the law of 1730, 1, which actually amortises the sites of houses of worship and burial grounds, then in possession of religious societies, devoted or erected for the purposes of religion or charity, was also a direct license to all protestant religious societies to take and hold in mortmain by future grants and gifts. The law of usage which, being saved by the constitution, became a supreme law, gave the same right to all societies united or incorporated for these purposes, whether protestant or not. As the custom of the province was in accordance with the rejected laws of 1710, in relation to the powers and duties of courts of equity, to the law of 1711 for the confirmation of public grants, and of 1712 in relation to religious societies, and the various acts concerning liberty of conscience and the privileges of freemen. And as this custom is the law of the state, according to which, lands have been held in mortmain from its first settlement, we are bound to give it the same effect as is given to the custom of London, by all the rules and principles of law in relation to the construction of statutes.

We must apply those which have been adopted on the 43 Elizabeth, as laid down by the Supreme Court, to the constitution and laws of the state, and construe them most favorably and benignly, for the promotion of all objects connected with the maintenance of religion, the advancement of learning, the relief of the poor, and public utility; so that the rights, privileges, immunities, and estates thus guaranteed, shall be enjoyed unimpaired here at least as far as they are in England by this statute. No one can compare its provisions with the legislation of the state, and hesitate, for a moment, in saying, that they fall far short of the protection given by our own laws to donations for pious and charitable uses.

If the 43 Elizabeth has by universal consent been considered as *pro tanto* a repeal of the statutes of mortmain, of superstitious uses, and restraints on corporations by the statutes of wills; they cannot be in force in this state, unless we reverse the whole course of the law, in the exposition of statutes, by construing them liberally in favor of forfeitures, and strictly against charities, so as to abrogate common law rights by equity and defeat the remedy provided by statutes for their protection.

It must be remembered that these are mere statutes of policy in contravention of the common law. The old statutes of mortmain were passed to prevent the king and mesne lords from being deprived of their seignoral and feudal rights accruing by prerogative and tenure. The statutes of Henry VIII. and Edward VI. were aimed avowedly against the rights of the Catholic religion. Its suppression being their great object, donations for their support were declared "to be superstitious uses *mala in fee* and destructive to our constitution and government under the Protestant religion; therefore the law prohibits them, but it is not so with charities, which have always been favored." The true foundation of the statute of mortmain of 9 George II. was that enough of lands had got into the hands of corporations that were indissoluble, and that even now charities may be established in the lifetime of a person, but shall not be done in his last moments. 3 Atkyns, 148, by Lord Hardwick.

The history of the times gives another reason for this statute. It was passed in the session of 1735-6, during a period of high excitement against the Catholics, and when the church was deemed to be in such danger that a bill for the relief of the Quakers from severe disabilities was thrown out in the House of Lords after passing the Commons. 5 Hume, 617-18. 3 Rapin, 225-6.

It is not congenial to the policy of this state to incorporate such principles into its system, nor would it be creditable to the character of its legislation, to expound it unfavorably to those rights and institutions which were favored, protected, and spared by the laws of a king who spared little besides.

If any statutes were suited to the policy of the state, they are the 43 Elizabeth and the 7 and 8 William III. chapter 37. An act for the encouragement of charitable gifts and dispositions, which in favor of learning, charity and other good and public uses, authorized the king to grant licenses to any person or persons, bodies politic or corporate, their heirs and successors, to purchase an alien land, in mortmain, in perpetuity or otherwise, without being subject to forfeiture. 3 Ruff. 636. It may well be presumed, that the emigrants from England brought with them these principles for adoption, and engrafted them into their system of religious toleration and charities; but that they ever adopted any law which created a forfeiture for an alienation of property to any religious, literary or charitable society or corporation, or prohibited donations for the uses of worship, according to the ritual of the Catholic church, is utterly inconsistent with the established usage, and every law of the state or colony from the earliest to the present time.

The law must be settled beyond all doubt before we can feel justified in deciding, that the rights of religious societies, and of charitable and literary institutions in Pennsylvania, are less firmly established than they were in the mother country.

As to the statutes of superstitious uses, it suffices to say, that when there can be no religious establishment, no restraint on the free exercise of religion, and no preference of modes of worship, the celebration of divine service according to the rites of any church or society worshipping the Supreme being, cannot be deemed unlawful or superstitious, nor can an actual incorporation, or express license be necessary to give to any society or body of men, the capacity of enjoying any right in accordance with a custom or usage, incorporated into the constitution in order to save a forfeiture, by an alienation in mortmain, when none is in a like case imposed by the law of England.

The revolution devolved on the state all the transcendent power of parliament and the prerogative of the crown, 4 Wheaton, 651, and gave their acts the same force and effect; consequently a grant, charter or law, made by its authority is by the principles of the common law equally binding on the state, as a patent or act of parliament is on the king. The state can take no estate by forfeiture when the alienation is expressly authorized by its laws, and the enjoyment of the estate, secured to the grantee by constitutional provisions which except the subject matter from all the powers of government.

It would be a remarkable feature in the legislation of the state, if while its successive constitutions have made the rights of bodies united or incorporated its especial favorites, and its laws give the right of self-incorporation to all religious, literary and charitable associations, and so far depart from the jealous policy of the state against Chancery jurisdiction as to provide special remedies for the execution of trusts in their favor, both as to real and personal property; they should be still considered as reprobated, outlawed by the statutes of mortmain, and their estates forfeited by the very act of a conveyance to a corporation directly, or to trustees for their use. If any, the least respect is paid to the constitution, they must be considered as placing corporations on the same footing at least, if not a better than in England, yet if the judicial dicta which we find in the cases are the law of the state, the statutes of mortmain are in full force; while those which have softened their rigor have not been adopted, and the supreme law of the state is a very nullity, incompetent to protect charities even

to the extent of the 43 Elizabeth or the 7 and 8 William III. There is no escape from this conclusion, if we take these dicta as the settled law of the state.

If the statutes of mortmain are a part of the jurisprudence of the state, they have been so from its first settlement; and as they have been in no way modified or altered, they must be taken to have been adopted to their full extent, so as to cover the mischief they were intended to remedy, by creating the forfeiture, and giving the state the right to seize the lands alienated, or the mesne landlord to enter as the land may have been held under the one or the other. 7 Sergeant and Rawle, 320.

As the tenures of Pennsylvania are free and common socage, there were no seignorial rights accruing by tenure, which could be defeated by an alienation in mortmain, except in case of a person seised of lands, dying intestate, and without known kindred; when the land escheated to the immediate landlord, of whom it was holden, or to the proprietary, if held immediately from him, according to the colonial law of 1705. 1 Dallas' App. 45, section 12, which remained in force till 1787, when the escheat was declared to be to the state. 2 Dallas, 553.

The mesne landlord then, was, till that time, entitled to the benefit of the forfeiture, and the license of the king or proprietary was no dispensation without the consent of the party to whom it accrued; the king could renounce his own right, but not the right of a subject before the statute of William III. it could be done only by the power of parliament. Vaughan, 333. 43. 56. Co. Lit. 99. a.

By the law of England the license of the king and mesne lords, is not alone sufficient; there must be a writ of *ad quod damnum*, to ascertain what damage it would be to any other person, to alien in mortmain.— Fitzherbert's *Natura Brevium*, Ad. Q. D. (222) 493, &c.

It follows that a patent, license, or charter, from the proprietary, under the colonial government, or from the president of the council before 1786, would not have saved the forfeiture to the immediate landlord, without his consent, and the writ of *ad quod damnum*; for if the statutes were in force, either by adoption, or as "the general course of the law of England," or the common law, they remained in force till they were altered or repealed, as declared in the acts of 1718 and 1777, as fully as if they had been re-enacted; and a license can have no greater effect here, than it had in England, before the statute of 7 and 8, William III., which was passed in 1695, thirteen years after the charter to Penn. "With respect to English statutes enacted since the settlement of Pennsylvania, it has been assumed as a principle, that they do not extend here, unless they have been recognized by our acts of Assembly, or adopted by long continued practice in courts of justice." 3 Binney, 597. As there is not a spark of evidence of such recognition or adoption, we have no legal or judicial authority for saying that it is now in force; consequently no license would save the forfeiture before 1787.

The Supreme court have declared it to be a point conceded that the 43d Elizabeth, has not been extended to this country. "But we consider the principles which Chancery has adopted, in the application of its principles to particular cases, as obtaining here, not indeed by the force of the statute, but as part of our common law, and where the object is defined, and we are not restrained by the inadequacy of the instrument, which we are compelled to employ, nearly, if not altogether, we give relief to that extent that Chancery does in England." 17 Sergeant and Rawle, 91. Assuming this position of the court to be correct, the inevitable conclusion is, that we have not adopted the

great operative principles, by which it has been held in courts of law, as well as in equity, to be a repeal of the statutes of mortmain, *de donis conditionalibus*, and of the restriction on corporations by the statute of wills. 3 Atk. 150.

(To be continued.)

From the Philadelphia Gazette.

## PROCEEDINGS OF COUNCILS.

Thursday evening, Nov. 13th, 1834.

### SELECT COUNCIL.

Mr. Lippincott presented a petition praying that Ann street, opposite Rittenhouse Square may be filled up to the regular level. Referred to the paving committee.

Mr. Price presented a petition, numerously signed by citizens of the western part of the city, complaining of the want of protection from fire, and praying for the passage of an ordinance authorizing the erection of two houses for fire companies in connection with the market house, about to be erected in Market, west of Broad street. Referred to committee on markets.

Mr. Lippincott, from the finance committee, to which was referred the petition of Ebenezer Willetts, made report accompanied with the annexed resolution, which was agreed to:

Resolved, That the house and lot of ground situate on the south-westwardly side of Hanover street at the distance of 40 feet southwardly from Prince street in Kensington, containing in front on Hanover street 20 feet, and in depth 70 feet, belonging to Ebenezer Willetts, be released from the judgment held against it by the city, provided the instalments and interest due on said judgment bond be paid up to the time the release is effected, and that the City Solicitor is hereby authorized to carry the same into effect.

Mr. Lippincott, from the same committee, on the petition of Jacob S. Wain, for a reduction of taxes on his buildings on south wharves, lately destroyed by fire, made report that "the prayer of the petitioners ought not to be granted, inasmuch as it would be establishing a dangerous precedent." Agreed to.

Mr. Eyre, presented the annexed award of the judges in relation to certain property taken for the passage of Delaware Avenue, which was referred to the committee on Delaware wharves.

To the Honorable, the Judges within named:

We, the subscribers appointed by the annexed order of court to view and adjudge the value of so much of the land and property of George Blight, Paul Beck, Jr. John B. Newman, Benjamin Jones, C. & F. King, and Charles P. Fox, as are taken for the passage or street called Delaware Avenue therein mentioned; Do report, That in pursuance of said order, after having been severally sworn or affirmed according to the act of assembly, we viewed the premises and examined the lands and property through which the road or street called Delaware Avenue aforesaid is to be opened, and having heard the parties concerned, we do value the lots occasioned thereby as follows:

To George Blight, for 25 feet in depth by 99 feet 2½ inches fronting on river Delaware, 18 feet 5 inches of which front is built upon, the sum of	\$20,000
Paul Beck, Jr. for 25 feet in depth by 177 feet 11½ inches fronting on the Delaware,	6,355
John B. Newman, 25 feet in depth by 54 feet fronting on the river Delaware 30 feet of which is built of brick; on the remaining 24 feet is an old frame of no value	3,350

Benjamin Jones, for 25 feet in depth by 41 on Delaware	1,845
C. & F. King, 25 feet by 30 feet front on Delaware	1,250
Charles P. Fox, 25 feet by 34 feet front on Delaware	1,416
	<hr/> \$34,216

(Signed)

Charles Massey,	Samuel Hazlehurst,
J. Moss,	William Abbott,
Michl Baker,	J. Patrick Hayes,
Joseph Price,	Alexander Hampton,
Lewis Ryan,	Isaac Collins,
Isaac Wainwright,	Henry Horn.

Mr. Eyre, offered the following resolution, which was agreed to:

Resolved, That the Clerks of Councils be directed to present to the Select and Common Councils of the city of Pittsburg, two copies of the recent digest of the ordinances of the city of Philadelphia.

### COMMON COUNCIL.

Petitions for filling up Ann street and for the erection of engine houses, in connection with the new market house in High street, were presented by Messrs. WARNER and ARNISON.

The annexed communication was received from the City Solicitor.

By a resolution of Councils of 11th September, my opinion is required "whether Councils have a right to erect any buildings in High street, other than a market house, as mentioned in the supplement to the act, entitled an act to empower the wardens of the city of Philadelphia, to extend the market house in High street, passed 19th March, 1810, or any other act of the Legislature."

The Act of Assembly referred to in this resolution is the only authority by which Councils exercise the right of erecting market houses in the public highways: and authorizes the corporation of the city of Philadelphia; when and as often as they shall think proper, to extend the market house in High street or elsewhere, in the said city, to build a market house or houses.

Immediately on the passage of this act of Assembly Councils passed an ordinance to extend the Market house in High street from 4th to 6th streets, and directed the City Commissioners to cause to be erected a three story brick house, connected with and at the west end of the said Market house between 5th and 6th streets. This direction to the City Commissioners was subsequently recalled on the ground that Councils had no authority to erect any other building than a Market house in the public highway.

I am of opinion that the Act of Assembly admits of no other construction than to authorize the corporation to build Market houses only,—the power to erect any other buildings than Market houses is not given by the act.

EDWARD OLMSTED, City Solicitor.

12th Nov. 1834.

Mr. Gilder, from the paving committee, to which had been referred an item of unfinished business relating to the footway in Broad street opposite Penn Square, and the letter of Michael McCloskey, respecting the size of curb stones, reported two ordinances:

1. Directing the footway along Broad street, opposite Penn Square to be altered, so as to conform with the other parts of said street.

2. That in all streets under 25 feet in width, the gutters shall be placed in the centre. That the curb stones in all streets under 25 feet in width, shall not be less than three feet long and fifteen inches wide,

and four inches thick; and in all other streets, four feet long, two feet wide, and five inches thick.

Laid on the table.

Mr. Williamson, from the committee on the subject of hackney coaches, made the annexed report, which was agreed to.

The committee to whom was referred the memorial of the owners of carriages intended to be hired for public use, respectively report.

That they have been attended by a number of the petitioners and have heard from them a full statement of the objects of their memorials. These appear to be two fold—1st, to require all hack drivers to be specially licensed by some public officer before they can be employed; and 2dly, to procure an increase of the number of stands for carriages.

The first of these measures would be attended with difficulties and inconveniences far greater than any it is intended to remedy. It would release the owner of the carriage from responsibility for the acts of his driver; destroy even the slight influence and control which the former now exercises over the latter; and throw upon the officer by whom the licenses are issued, the necessity of ascertaining the private character of every individual who becomes a hackney coachman.—All this, in the opinion of your committee, is the duty of the owner. He selects the person to whom he chooses to intrust his horses, his carriages, and their earnings; he sees him constantly and must know what his conduct is. If he gives his confidence to one who does not deserve it, or retains in his employment one who is guilty of any misconduct, it is but just that he should suffer the penalty of such culpable negligence. So far therefore from inclining to release the owners of these carriages from any liability, which the laws now impose on them, your committee believe that if any means could be adopted to render them more cautious in engaging, and more strict in governing the persons in their service, it would benefit both the public and themselves.

Under these impressions, your committee cannot recommend any modification of the present regulations on this subject.

With regard to the number of stands, your committee are satisfied that the steps taken by the City Commissioners will remove all reasonable ground of complaint.

They therefore pray that they may be discharged from further consideration of the memorial.

HENRY J. WILLIAMS,  
RICHARD PRICE,  
JAMES ROWLAND,  
B. H. YARNALL,  
JOS. LIPPINCOTT.

Nov. 12th, 1834.

Mr. Yarnall, from the committee on markets, made the annexed report, which was laid on the table.

*To the Select and Common Council.*

The committee on markets, to whom was referred the item of unfinished business from the former Councils, relative to the erection of engine houses at the eastern end of the market house, west of Broad street, report.

That there are few if any permanent accommodations for fire apparatus in that section of the city, which does not, therefore enjoy the advantages of equal protection in case of fire with other sections where such establishments are more numerous, and it seems to your committee to be good policy to encourage the judicious settlement of these very useful institutions, in those parts of our city in which they are deficient.

The situation appears more free from objections than any other, as it is in the middle of a wide street, and

comes in contact with no private property. If inconveniences have occasionally been found to arise from the neighborhood of engine and hose houses, they would surely be less annoying in the midst of a wide public street than they would be if placed adjoining the dwellings or stores of the citizen.

With these views the committee respectfully submit the following resolution.

Resolved, That the committee on markets be instructed to cause accommodations for the apparatus of two fire companies to be erected at the eastern end of the market house now building west of Broad street.

Mr. Wright offered a resolution instructing the committee on City Hall and State House, to inquire into the expediency of altering and improving the Common Council chamber. Agreed to.

Mr. Gilder offered a resolution directing the committee on public squares to inquire and report to Councils on the expediency of appropriating some part of Penn Square for the use of fire companies. Agreed to.

On motion of Mr. Hutchinson, it was

Resolved, That a committee of three from each Council be appointed for the purpose of procuring more suitable accommodations for the City Treasurer, City Commissioners, City Clerk, and the several committees of Councils.

On the part of the Common Council, the President, Mr. Troth, appointed Messrs. Hutchinson, Lamb and Chandler. Select Council concurred, and appointed Messrs. Wetterill, Lippincott and Price.

Councils met in joint meeting for the purpose of electing three Trustees of Girard College, in the place of Messrs. Keating, Williams, and Dunlap, resigned.—Mr. Price of the Select, and Mr. Paul, of the Common Council, were appointed tellers. The annexed is the result of the several ballotings.

*Vacancy occasioned by the resignation of W. H. Keating Esq.*

	1st ballot,	2d ballot.
W. W. Haley	11	21 elected.
Samuel Rush	5	0
Cornelius Tiers	3	0
Robert E. Griffith	3	5
Dr. C. D. Meigs	1	1
Henry M. Zollickoffer	1	0
James C. Biddle	3	1
S. W. Sexton	1	0
	28	28

*In the place of Mr. Williams, resigned.*

	1st ballot.	2d ballot.
Samuel Rush	11	17 elected
James C. Biddle	6	4
Henry M. Zollickoffer	2	1
S. W. Sexton	1	0
Dr. C. D. Meigs	2	3
Robert E. Griffith	7	4
	29	29

*In the place of Mr. Dunlap, resigned.*

	1st ballot.	2d ballot.
James C. Biddle	13	15 elected.
S. W. Sexton	1	0
Henry M. Zollickoffer	7	8
Dr. C. D. Meigs	3	2
Robert E. Griffith	4	4
Dr. H. Bond	1	0
	29	29

## FARMING IN PENNSYLVANIA.

Notwithstanding all that has been said in relation to the advantages of taking up land in the western states, we believe it is entirely possible for an industrious and honest farmer, to make not only a decent living, but even to acquire a competence, in the course of a few years, in Pennsylvania. We are confirmed in this opinion, by a statement in a late number of the *Susquehanna Register*, the editor of which furnishes the annexed particulars, made from actual observation.

James Oakley cleared and cropped twenty-three acres of new land as follows:

The land was rather light timbered, so that the cost of chopping 18 acres at \$4 per acre, was but

Do. of 5 do. at do.	\$72 00
Cost of clearing 21 do. at \$4 do.	25 00
Do, 2 " at \$5 "	84 00
	10 00

Cost of chopping and clearing, \$191 00

Sowed 10½ bushels of Wheat on 12 acres—cost of seed,

5 do. of Rye on 6 acres—seed	13 13
2 " of Oats on 1 " "	2 50
Harrowing Wheat 12 " "	63
Do. Rye 6 " "	10 00
Do. Oats 1 " "	6 00
Planted 4 acres of Corn-planting and seed	1 00
Hoeing do.	2 00
	1 50

Cost of seed, harrowing, &c. \$44 76

Cost of cutting Wheat and Rye—42 days work

Hauling do.	42 00
Harvesting Oats	10 00
Do. Corn	1 00
	4 50

Cost of harvesting the crops \$57 50

Threshing 330 bushels of Wheat	30 00
" 150 do. Rye	9 37
" 30 do. Oats	75
" 90 do. Corn	1 50

Cost of threshing, &c. \$41 62

## Recapitulation.

Cost of chopping and clearing,	191 00
Cost of seed, harvesting, &c.	44 76
Cost of harvesting crops	57 50
Cost of threshing do.	41 62

Whole cost \$334 88

For this labor and expense, he has 330 bushels of Wheat, at \$1 per bushel	330 00
150 " of Rye " 62½ cents	93 75
30 " of Oats " 25 "	7 50
90 " of Corn " 50 "	45 00
Straw, say	15 00
Corn fodder	5 00
	\$496 25

Leaving the settler, at a moderate calculation, \$151 37; which would pay for the land, at \$3 per acre, and leave near a hundred dollars profit. So much for the profits of farming in the Beech Woods.

The mail reached Pittsburg on Monday last, in fifty-two hours from Philadelphia.—*Commercial Herald*.

From the Huntingdon Advocate.

## CANAL TRADE.

We have obtained from the Collector of Tolls at this place the following statement of tonnage which passed this place on the canal during the present season up to the 1st November inst. Also, the amount cleared at this place during the same time.

Arrived from the east, sundries, viz. mdz. fish, salt, hides, gypsum, wheat, corn, rye, &c.	26,442,491 lbs.
Arrived from the west, sundries, viz. bacon, flour, cotton, tobacco, glass, rags, hemp, wool, salt, furs, peltry and coal,	41,584,984 lbs.

Total, 68,027,475 lbs.

Timber and sawed stuff from the west,	115,146 feet.
Do. do. from the east	8,435 feet.

Total, 123,681 feet.

Shingles,	29,000
Posts and rails,	450

Of the above amount of tonnage there was 3391½ tons bituminous coal from the west, and 91 tons anthracite coal, and 820½ tons Gypsum from the east.

Amount of tonnage cleared at Huntingdon the present season, up to 1st November.

Posts and rails,	3,633
Sawed lumber,	118,477 feet.
Wood for fuel,	117 cords.
Shingles,	19,000
Timber,	1,780 feet.
Bricks,	15,400

## Sundries, &amp;c.

Flour, wheat, hay and grass seeds, butter, lard, tallow, leather, whiskey, furniture, rags, iron, &c. &c. 5,890,515 pounds.

Of this amount there was 7723 bbls. flour, 8925 bushels wheat, 5826 bushels of corn, oats and rye, 3453½ bushels of hay and grass seeds, 4502 lbs. butter, 14,521 lbs. leather, 5871 gallons of whiskey, domestic spirits 1284 gallons, 484,623 pounds iron, all of which, besides a variety of other items, were the products of our country.

The coal and timber of the Allegheny as appears by the above report, is carried east along the line of canal in great quantities, which is of great advantage to the country. The benefits derived from the canal are every day becoming more and more manifest. The almost inexhaustible bodies of coal, and the timber of a superior quality before the completion of the canal could not be brought into general use, or if introduced at all into the country generally, it was at prices greatly above the present cost. The internal improvements of Pennsylvania have made a vast deal of mountainous country valuable property, which, but for the great system, must have remained for the time to come, as formerly, a barren and unprofitable wilderness.

From the Pittsburg Gazette.

## PUBLIC MEETING.

## CHESAPEAKE AND OHIO CANAL.

Pursuant to public notice, a large and highly respectable meeting of the citizens of Pittsburg and its vicinity was held at the Court House, on Friday evening, the 7th instant, for the purpose of appointing delegates to the Convention to be held in Baltimore on the 8th December next.

The Mayor of the city was called to the chair, John M. Snowden, and A. W. Foster, Esqs. chosen Vice Presidents, and George Darsie, and T. B. Dallas, Secretaries.

The following preamble and resolutions were offered by W. W. Fetterman, Esq. who prefaced the offer by some pertinent and forcible remarks in their support.

A. W. Foster, Esq. seconded the resolutions, and addressed the meeting in an animating speech in their favor.

Whereas, the connection of the waters of the Chesapeake with the Ohio is an object of the greatest national importance, alike productive of incalculable advantages to our free and happy country in peace and in war—

And whereas, the great Chesapeake and Ohio canal is now nearly completed to a point nearly eight miles west of Williamsport, and about 68 east of Cumberland, Md., being upwards of 108 miles, at an expense of a little more than 4½ million dollars—

And whereas, nature seems to have indicated its termination at the city of Pittsburg, at the head of the Ohio, and the controversy that so long subsisted between the Canal Company, and Rail Road Company has now been happily settled, and the people of the east are anxious to prosecute this great work—

And whereas, it has been ascertained that it is practicable to complete it at an expense not greater per mile, on the average, than that already incurred—

And whereas, it is of the utmost importance in its results, not merely to the great States of Pennsylvania, Virginia, and Maryland, but also to the Union at large, affording, at all times, a channel of communication between the sea board and the vast west, less obstructed by ice than any other possible route—at least between ten and eleven months in every year—diminishing the expense of transportation between the East and West, and uniting the Union together by an indissoluble band, always safe from foreign violence, and enabling us to pour, on a moment's warning, the hardy sons of the west on the Atlantic sea board, when the country is threatened with foreign invasion—enhancing the value of all the property along its route—placing as it were, by diminishing time and space in its approach, the seat of our National Government in the very heart of our country, whence the great channel of communication will be of equal benefit to the east and west.—As, to use the language of the illustrious Washington in his farewell address to his country—"The east already finds advantage in its intercourse with the west, and in the progressive improvement of internal communication, by land and water, and will more and more find a valuable vent for the commodities which it brings from abroad or manufactures at home.

"The west derives from the east supplies requisite to its growth and comfort, and what is perhaps of still greater consequence, it must of necessity owe the secure enjoyment of indispensable outlets for its own productions to the weight, influence, and future maritime strength of the Atlantic side of the Union, directed by an indissoluble community of interest, as one Nation"—and whereas, as citizens of Pittsburg, we believe that the completion of the great work is to us particularly, and to all concerned, a matter of vital importance; and that, to complete it, recourse must be had to Congress, or the Governments of the states through which the work passes. In order to give unanimity of action on the subject, and to heartily join with our friends in different parts of the Union, who are actuated by the same good feelings that actuate us, and being anxious to express ourselves as freemen in the great National work—

Therefore, it is by this meeting Resolved, that—

T. B. Dallas, H. Denny, Chas. Shaler, John Irwin, W. W. Irwin, Wm. Robinson, jr., Jacob Forsyth, John D. Davis, Charles Avery, Richard Biddle, Joseph Patterson, be Delegates to attend a Convention to be held in the city of Baltimore, on the 2d Monday of December next, at 10 o'clock, A. M., to consider and adopt such measures as shall seem most likely to have the Canal speedily completed to Pittsburg, and that

delegates now chosen, have the power to fill vacancies in their body.

Resolved, That the following gentlemen be appointed a Committee of Correspondence.

W. W. Fetterman, Neville B. Craig, John Turbett, Rob't Burke, John Birmingham, J. B. Butler, James S. Craft, J. P. Bakewell, Joseph Snowden, James P. Stuart, B. Bakewell, Thos. Livingston, Thos. S. Clark, M. Tiernan, S. P. Darlington; G. Ogden, Thos. Williams, Rob't Christy, John Lyon, Wm. Ebbs, Geo. Miltenberger—

Whose duty it shall be to take such steps as may be necessary towards the furtherance of the views of this meeting, and the general prosecution of the work.

Resolved, That we view the completion of the great Chesapeake and Ohio Canal as an object of National importance, and worthy the encouragement and support of the Executive and of Congress.

Resolved, That we consider it a matter of vast importance to have the work speedily commenced on the western section thereof, terminating at Pittsburg; and that the next Congress be requested to make an additional subscription of one million of dollars for that purpose.

SAMUEL PETTIGREW, Chair'n.

JOHN M. SNOWDEN,

ALEX. W. FOSTER, Sr. } Vice Presidents.

George Darsie,

T. B. Dallas, } Secretaries.

## IMPROVEMENTS—BROAD STREET.

The advantages of our system of internal improvements have already been clearly demonstrated by the improvements on Broad street. Among others we notice the following:

During the present season, the West Chester-rail road company have erected a large brick building, intended for a Hotel and depot, on the east side of Broad, above Arch street. The building is 58 feet front, by 40 in depth, and 4 stories in height; connected with it is a store-house and covered car-house, making the whole depth of the building, 150 feet. The store house and track are nearly finished, and will be completed and in use in all next week. The dwelling will be completed by the first of April.

On the west side of the street, just above Chestnut, a building intended for a depot, has been erected, belonging to Mr J. Downing, of Chester county. This building is of brick, and roughcast, 4 stories high, 18 feet front by 94 feet deep. It will be completed during the present month.

On the same side, between Race and Vine streets, Messrs. Noble and Orrick, have nearly finished a large store-house 21½ feet front, by 150 feet deep, with a track extending from the rail road the whole depth of the building. This building will be completed and occupied next week.

Near Vine street, two large and substantial three story stores with granite fronts, have been erected during the present season—each 18 feet front by 60 deep, belonging to Mr. J. Hemphill. The adjoining store, occupied by Noble and Orrick, has also been enlarged.

Opposite, a building for a depot has just been commenced by Mr. White, 40 feet front, which will be completed by Christmas.

At the northeast corner of Vine is a large depot, 68 by 58 feet, connected with a car-house and stables, and adjoining this is the Broad Street House, erected in 1832. This is a fine building, 4 stories high, 50 feet front by 60 deep, containing upwards of 30 chambers and parlors, with extensive back buildings. This establishment is kept by Mr. William Matheys. A sub-post office, is also kept at this place. Opposite, is the depot and car-house of Messrs. Slaymaker & Co., stage proprietors.

Adjoining the West Chester rail road depot, we observe that Mr. Osborne, late sheriff of Chester county, has opened the West Chester, Lancaster, and Columbia Rail Road House, where he will no doubt be always "at home" to his friends.

All these improvements we have noticed with great pleasure, as affording indications of the enterprise of our citizens, and the most gratifying evidence of the probable condition of our city when the various improvements now in progress in our State, shall have been completed and put into active operation.—*Commercial Herald*.

From the Commercial Herald.

#### THE NORTH BRANCH OF THE SUSQUEHANNA.

Now, that the Session of our Legislature is near at hand, a word or two as to the Internal Improvements which should claim its attention, may not be unseasonable. The great Western Line to Pittsburg being completed and in use, that upon the North Branch of the Susquehanna, becomes the most interesting and important of the unfinished works. We say *unfinished*, because although a canal has been made along that river, from Northumberland to the mouth of the Lackawanna, it by no means completes the design with which it was commenced, nor can it be profitable or in any considerable degree useful, without further extension.

Why the Legislature has stopped this improvement at the mouth of the Lackawanna, and why the good people, on the North Branch, have acquiesced so quietly in the arrangement, while other works of far less importance were pushed to the utmost limit of the original plan, is incomprehensible to us. All who are familiar with the history of our internal improvements know, that the canal along the North Branch was designed to connect the Pennsylvania with the Great Erie canal—and in that way to open for the Anthracite of the Wyoming Valley, the Bituminous coal of the West Branch, and the iron of our central region a market in the interior of the state of New York, where there is a large demand for all those articles, which every year must greatly increase. In return for these, the southern counties of New York would send wheat for the Atlantic market, and plaster and salt for consumption in the interior; thus producing what can be expected upon none other of the State works, an ascending trade of nearly equal bulk and weight—and holding out a fairer prospect of profit than any other, the great Western line perhaps not excepted.

To effect this connection between the canals of New York and Pennsylvania, only about ninety miles of improvement remains to be undertaken, all of which lies within the latter state, and along the valley of the North Branch. The state of New York has already provided for a double connection between the North Branch and the Erie canal, by means of the Chenango canal, and the Ithaca and Owego rail road.

The importance of attending to this subject is exemplified by a fact which we stated some days ago, namely, that a boat loaded with coal, had departed from Newark, bound for one of the south western counties of New York. This coal had already been transported about 150 miles from the mines at Mauch Chunk, and was then shipped for an additional voyage of about five hundred miles to its place of consumption. Now if the North Branch were improved by canal or otherwise to the New York line, the coal of Wyoming might be placed at the same point on the Erie canal by a transportation not exceeding 200 miles, and at a price not higher than the Lehigh coal bears in the city of New York. It is a fact worth remembering, that the timber of Western New York is rapidly disappearing, and for the most part does not renew itself; and consequently, that coal must soon be resorted to for the manufacture of salt and for domestic uses. When that is the case, and

not before, the anthracite region of the North Branch will be developed, with results as rich and prosperous as have been produced on the Lehigh and Schuylkill.

If the people on the North Branch understand their true interests, they will urge this subject manfully, at the approaching session of the Legislature.

#### PHILADELPHIA ICE COMPANY.

Report of the Board of Directors of the Philadelphia Ice Company, presented to the Stockholders at their Special meeting, held 21 October, 1834; and the resolution of the Stockholders adopted at that meeting.

To the Stockholders of the Philadelphia Ice Company:

The season for the delivery of ice having passed, and the affairs of the Philadelphia Ice Company requiring the action of the stockholders; the directors, on the 30th of September, resolved to call this special meeting.—The day fixed by the articles of association for the annual assemblage of the stockholders, is, in the opinion of the directors, too late for the completion of essential arrangements to improve the ice house, preparatory to the deposit of ice in it for the next season.

In order to place before the stockholders all the matters deemed necessary by the board for their consideration, and required for their decision upon a measure to be submitted to them, it will be proper to take a brief retrospect of some of the circumstances attending the establishment of the company, and its operations; and which have had an important influence on their interests during the past year.

The company was not organized until October 3d, 1833: on which day the first meeting of the board of directors took place. In the brief period which could intervene between that time, and when the ice could be stored securely and in sufficient quantities, the funds of the company were to be collected; a proper location for the ice house was to be chosen; the lot on which it was to be erected was to be purchased; a plan of the ice house was to be adopted; materials for its construction were to be procured; arrangements for its erection were to be entered into; and the building was to be prepared, and in order, for the reception and preservation of ice.

After the most diligent efforts, in which the individual exertions of every member of the board were freely contributed, a lot of ground on the Pennsylvania rail road was obtained, a plan for the ice house was adopted, contracts for the work of erection were made, and materials were procured: but with all these laborious and persevering exertions, it was not until the 23d day of November, that the active contractors could place the framing for the building on the ground. Under these circumstances the season for procuring ice arrived before the house could be completed, and the machinery to place it in the depots could be obtained. In this most disadvantageous state of things, the collection and deposit of ice was commenced while the carpenters and other mechanics continued to work at the ice house; and much of that part of the plan essential for the preservation of the ice, the filling in with tan, was not done until long after the storing of ice in the depots was at an end; the season having passed.

Thus, while others who had their ice houses in readiness before the freezing of the Schuylkill, were actively and successfully engaged in collecting and depositing ice, the agents of the company were necessarily employed, exclusively, in efforts to prepare the building; and before it could be but imperfectly arranged, a great part of the ice season had gone by. The reports of the superintendent, and other documents in the possession of the directors, will show that the whole time in which ice could be collected by the company, after the building was ready to receive it, did not ex-

ceed seven days. The ice obtained in the latter portion of these days was bad; and in a state to render it in a great degree unfit for preservation.

Under these difficulties, the expenses of procuring the small quantity of ice which was deposited in the building were greatly augmented; and not one third of the quantity required for filling the ice house was obtained. At one time it was supposed by the board of directors that a greater amount of ice had been secured than is now stated; but upon a more accurate examination, this supposition was found to be entirely incorrect.

The building of the company, when charged to fullness, will contain upwards of 200,000 bushels of ice; and not as much as 60,000 bushels were stored during the past season. The supply of ice, to which the stockholders are entitled amounts to about 20,000 bushels, and not as much as 40,000 bushels remained after reserving for their priority of demand, for wastage in the delivery, and for sales to the subscribers and the public.

The mode in which the ice should be transported from the ice house to the city, and afterwards distributed, presented many difficulties; and all that could be done by the directors for this purpose was necessarily experiment, as they as well as the agents of the company employed for this object were without experience. That errors, and mistakes, and heavy expenses should occur in this portion of the business of the company were the necessary consequences of this state of things; and the losses and expenses sustained by the company were greater in this particular, as the restricted means of the company prevented their adopting other and preferable plans, which required a larger investment of funds than was at command of the board. In the delivery of ice many irregularities occurred, from the circumstances referred to; and the waste of ice during the delivery, exceeded all the anticipations of the directors.—This waste sometimes amounted to fifty per cent of the quantity taken from the ice house; or in other terms, but one half the ice placed in the carts for the transportation to the city could be distributed from the carts before the other half was dissolved. The company was also exposed to losses from the frauds of the carters; who, as the carts were hired, and the carters paid by their owners, were not as much under the control of the superintendent and responsible to him, as are essentially necessary to assure more fidelity, more despatch, and more exactness in the delivery of ice.

After stating these circumstances of a character adverse to the interests of the company, it is highly gratifying to turn to others of a more cheering influence; and affording unquestionable assurances that the purposes of the company may be fully accomplished, and that all, and more than was promised to the stockholders will certainly be obtained, if the stockholders so resolve.

The ice house has been found to preserve ice beyond every hope and expectation. It may be said with emphasis and truth, that it will keep the ice deposited in it within less than a loss of five per cent. of the quantity so collected, until the latest delivery from the depots. These assurances are not founded on estimates resting on unascertained facts or sanguine conjectures. Frequently during the past season, reports of the state of the ice in the building were made by the superintendent, and by committees of the directors specially appointed for the purpose. These reports rested on accurate admeasurements and watchful observances.—The ice in almost every ice house of the common construction sunk an inch daily, and receded from the sides from three to five feet during the last season. The ice in the company's ice house did not sink on an average an inch a week, and did not recede from the sides and partitions, in the whole period, more than eight inches. In some parts of the building, as the tan was put into the intricacies of the framing in a frozen state, some va-

cancies must have existed; and in these places the ice fell off from the sides to a greater extent. But even in these places, the falling off was proportionably inconsiderable. The company have therefore a building ample and complete for the preservation of ten times the quantity of ice required for themselves; and in every season in which the house can be filled, they may sell 100,000 bushels of ice beyond the wants of the stockholders, and the largest allowance for waste, in transportation to, and in delivery in the city.

Upon this full success of our experiment, the board, with the highest satisfaction, congratulate the stockholders. The directors feel assured, that the stockholders will, in this entire accomplishment of the purposes of the association, consider that they have ample security for the cost of their stock; and that they will, without hesitation or reluctance, and they trust without a dissenting voice, agree to the measures which will be proposed at this meeting, or to others of equivalent effect, for the continuance of the company, the prosperous and profitable use of this property, and for securing a full and certain supply of ice to the stockholders and to the public hereafter.

Notwithstanding the small quantity of ice stored and secured, the stockholders were supplied with the ice to which they were entitled during the whole period in which ice is generally delivered; *with the exception of about fifteen days.* Included in the ice so delivered by the company, was a cargo procured from Boston, the result of an effort the directors considered themselves bound to make to continue the supplies during the season of extreme heat; but which from the expense attending it should not be hereafter repeated.

Nor is it a circumstance to be omitted in enumerating the benefits derived from the establishment of the ice company, that but for the ice stored by the agents of the company, the deliveries of ice would have altogether ceased in Philadelphia before the last of July. The whole quantity of ice collected for public use by all those engaged in the business, would not, without the aid of the company's ice, have lasted beyond the period stated; and thus the public would have been without the luxury of this necessary of life, during a large portion of one of the most sultry seasons heretofore known.

This is not a conjectural assertion. All the large quantities stored by Messrs Molier & Co. and others, did not furnish ice to continue their full and regular deliveries for more than ten days after the Philadelphia Ice Company ceased its operations: and this condition of things prevailed, although the quantities disposed of by those gentlemen and others were greatly lessened as it is presumed that more than eight hundred of their former customers were abstracted from their lists by the establishment of the Philadelphia Ice Company.

It is respectfully submitted, that sufficient has been stated to satisfy the stockholders that even under all the difficulties and obstacles to success, arising from the novelty of the undertaking, the late period at which the company was formed, the want of experience of its officers and agents, the restricted funds at the command of the directors, much has been done. It is hoped that the stockholders will believe that all that could be done under these circumstances, has been effected.

It is repeated that the company has an ice house fully competent to preserve ice, ample in quantity to supply the wants of the stockholders; and to dispose of 100,000 bushels of ice every season, when the ice house shall be charged with all the ice it is capable of receiving. That during a season of uncommon heat and sultriness, the supplies of the company's ice have been such, as to have given ice to the stockholders and the public for a period as long as ice is usually delivered, with a deduction of no more than about fifteen days.

It now remains to state the situation of the affairs of the company.

The whole number of shares of stock sold and paid for in full is six hundred and seventy-nine, at twenty-five dollars each

\$16,750 00

Fifteen shares paid for in part

165 00

Making the whole amount of the proceeds of stock sold

17,140 00

The cost of building the ice house of the company, materials, wharf and filling it, &c. was

13,687 97

Cost of the house for the accommodation of persons employed by the company

581 88

Rail road cars, horses, boxes, carts, &c. &c.

1,361 33

Delivery of ice, horse feed, &c.

2,260 99

Cost of turn-out near the ice house

266 00

Cost of ice from Boston and other places

1,015 54

Current expenses, including salaries to officers, rent of office, &c. &c.

2,803 49

Making the total amount of disbursements and liabilities

21,977 22

There will be collected for ice sold

1,750 00

There are at Iceberg Place materials not used in the construction of the ice house

500 00

Due to the company for materials sold

150 00

It appears that the sum required for paying the debts of the company, for alterations and improvements at the ice house, for the purchase of carts, horses, and for the expenses of delivery before the collections can be made, and to prevent a further application to the stockholders, will be \$10,410.

It is, submitted that this sum should be raised by an assessment of fifteen dollars on each share of stock; and the directors feel assured that this assessment is essential to the purposes of the company, and will be sufficient to secure the accomplishment of all the objects for which it was formed, and probably to give a large dividend upon every share. If only 50,000 bushels of ice shall be annually sold at twenty-five cents per bushel, the proceeds of the sales will be

\$12 500

Deduct from this, the cost of filling the ice-house annually

1,500

The cost of delivering ice annually

3,000

Agents of the company and contingent expenses

3,000

7,500

Leaving a surplus of \$5,000 to be divided among the Stockholders.

The plan of an assessment of fifteen dollars upon each share of stock is recommended in preference to the sale of additional shares. Already the shares of stock are too numerous. For every share-holder a customer is lost to the company: and as the expenses of the company are to be paid out of the sales of ice, if the number of shares is increased, it is almost certain the proceeds of the sales will be insufficient for these purposes. It is earnestly recommended by the directors that the number of shares of stock be not increased.

The exhibition of the affairs of the Company now made, and the circumstances here stated, must it is respectfully urged, satisfy all who are interested in the future existence of the company, that a great error was committed in fixing the shares at twenty-five dollars each: they should never have been less than fifty dollars, as was originally intended. It should not have been expected that a stockholder, for the sum of twenty-five dollars, the annual interest of which is but one dollar and fifty cents, could obtain, annually, a supply of ice which would have cost him at the lowest rate heretofore

paid for the same in the city of Philadelphia, seven dollars per annum. If the cost of the shares shall be made forty dollars, by the assessment of fifteen dollars on each share of stock, the annual interest of this sum will be two dollars and forty cents: and for this sum each stockholder will receive annually, when ice can be obtained, seven dollars worth of ice, and a reasonable expectation of a considerable dividend.

Nor is it to be forgotten that among the considerations which promoted and induced the formation of the Philadelphia Ice Company, the expectations that it would prevent monopoly, and regulate the price of ice within a reasonable rate, were strongly entertained.—While to many, the hope of a supply of ice at a small annual cost furnished a motive to become stockholders in the company—to them, and to many others, these objects were far more influential. The capacity of the company to preserve a full supply of ice in their ice house, having been fully ascertained, monopoly will be hereafter entirely prevented; and the community will never more be imposed upon by an exorbitant charge for this luxury; which our habits have made necessary to our comforts, and which is often of vital necessity to the sick and convalescent. Will the economist refuse to pay for his ice two dollars and forty cents annually, which is all he will pay, by making his share cost him forty dollars; when he will not only be thus secured in the supply of the quantity of ice his wants require, but will also contribute to the great and permanent good of the community of which he is a member.

The directors recommend that the stockholders adopt the following resolution:—

*Resolved*, That the sum of fifteen dollars be assessed on each share of the stock of the Philadelphia Ice Company, to be collected by order of the board as soon as required, by a resolution thereof; and that no share of stock in the company shall hereafter entitle the holder to the delivery of ice for the same, or to any of the privileges of a stockholder in the Philadelphia Ice Company, unless the said assessment shall be paid within in thirty days after the same shall be called for, by a resolution of the directors as aforesaid. The directors to have the right to readmit each stockholder who shall omit such payment, to the full enjoyment of his share, on his paying in addition to the said assessment, at the rate of fifteen per cent per annum on the said assessment of fifteen dollars, from the time the same should have been paid.

By order of the board of Directors,

RICHARD PETERS, President.

## REMINISCENCES.

In looking over the first volume of the *Pittsburg Gazette*, we noticed some matters which may be interesting to some of our readers.

In the paper of the 19th of March, 1787, we find the following article:

"*March 10, 1787.*—A correspondent who attended the meeting of the inhabitants of Pittsburg, held at the Diamond, on Thursday, the 1st of March, for the purpose of framing a plan for building a market house and establishing regular market days, remarks, that it was strongly urged by the supporters of it to be a matter of the utmost utility to the inhabitants of the place, and hoped it might be carried into effect. It may, indeed, be for the benefit of those who have cash, as it would save them some trouble and industry to get what articles they might want; but as for the inhabitants of this place, in general, to enter into an association to buy no provision but in that market (on market days) is truly absurd, for many of us, at least he knows it to be his case, don't get as much cash in a week as would purchase a pound of beef, and we had better stay at home and suck our fingers than go to market without it."

In the paper of June 2d, 1787, we find the following

article. Fort Harmer was situated on the west side of the Muskingum, opposite to Marietta.

"Since the 10th of October, 1786, to May the 12th 1787, there have passed down the Ohio river for Kentucky, 177 boats, 2,689 people, 1,333 horses, 766 cattle, 102 wagons, and 1 phaeton. This account is taken from a journal kept by the adjutant at Fort Harmer, on Muskingum.

"A number passed in the night unperceived."

In the paper of March 22, 1788, we found the following paragraph:

"Since the opening of the navigation of the Monongahela and Ohio rivers, which has been closed since last December, until within these few days, a number of boats have passed this place, for Kentucky, containing from 20 to 30 persons each."

The river has very seldom been closed so late in the season; as "within a few days" of the 22d of March.

In an editorial address in the paper of the 19th of July, 1788, we find the following, being the first notice of a regular post from this place to Philadelphia.

"A regular post being now established between the city of Philadelphia and this place, it will be in their power to give to the public every transaction of importance which may happen in Europe, and inform them of every occurrence worthy of remark which may take place in any of the United States, together with the intelligence this western country affords, will, they hope, make the Pittsburg Gazette worthy the attention of every independent citizen on this side the Allegheny Mountain."

### PROPOSED COLLEGE.

We learn that the beautiful and romantic place, well known by the appellation of *Laurel Hill*, on the Ridge Road and not far from the Girard College, has been purchased by the Rev. Mr. Keily, the deservedly esteemed Pastor of St. Mary's Church, for the purpose of converting it into a Catholic College, under the title of "Laurel Hill College," to go into operation on the first of January next. With this view, it is his intention to apply to the Legislature, during their next session, for an act of incorporation.

We are also informed, that the late proprietor, Mr. Melizer, when the deed conveying the title was executed, made a considerable donation in consideration of the object to which Laurel Hill was to be converted, but especially on account of his personal regard for the reverend purchaser.

From the experience, attainments and exemplary character of the Rev. Mr. Keily, we anticipate gratifying results to flow from this enterprise, in regard to the great interests of morals and literature. The locality which the reverend principal has selected for this important object, is too well known for its beauty and various advantages to need further description or recommendation.

The reverend gentleman preached his farewell sermon to his flock, at St. Mary's Church, on Sunday morning last. We have reason to believe that to him, as well as his congregation, it proved a painful and affecting task; but it will be a consolation to them to think that he is removing from them but a short distance, and to a highly useful sphere.—*National Gazette*.

**FAST SAILING.**—The owner of the Ship Ohio, from this port, who went passenger in her to New Orleans, furnishes the following account of her run:

October 9, 4, P. M. Cape Henlopen bore W.

On the 13th, at 6 P. M. the Hole in the Wall bore W. distant 2 miles.

On the 16th, at 11 A. M. the Light-house on Tortugas, bore N. distant 5 miles.

On the 18th, at 12, the Pilot came on board at the Balize; making the whole run in 212 hours or less than 9 days.—*Commercial Herald*.

We mentioned some days since that the People's Line of Rail Road Cars and Stages had been established to run between this City and Pittsburg in 60 hours. The first trip has been made and was run in 57 hours.—*Commercial Herald*.

MAUCH CHUNK, November 7.

**THE FIRST SNOW.**—Our mountains were, for the first time this season, visited with a snow storm on Sunday morning the 2d inst. which was barely sufficient to whiten the surface of the ground. It was however like the first snows of Autumn generally—a frail and transient affair—a mere precursor of mud—a tolerable quantity of which it left in a few hours.—*Mauch Chunk Courier*.

**GRACE CHURCH**, in the borough of Honesdale, Pa. on the 31st ult. was consecrated to the service of God, by the Right Rev. H. U. ONDERDONK, D. D. assistant Bishop of the Diocese, at the same time, the Rev. T. WESS, of that borough, was admitted to the holy order of Priest.

From the U. S. Gazette.

**RAIL ROAD ACCIDENT.**—A disastrous and most censurable encounter took place yesterday, between two opposition cars on the Columbia Road. The two cars were approaching each other, about 12 o'clock, a little below Downingtown, with great speed, on the same track the point being between, from which the latest car is obliged to retrace its steps. As they approached that point, the horses were lashed for the victory; and though, as the cars approached the point, the breaks were (as the drivers affirmed) put down—a stop was impossible. The horses sprang aside, and the cars came together with tremendous force, breaking in their fronts and strongest timbers, producing the utmost consternation and distress amongst the passengers, and severely wounding such as were most exposed. One gentleman, sitting on the driver's seat, received the opposite car against his knee, and is probably seriously hurt. The Rev. Dr. Neill received a violent blow on his head, which seriously affected him through the day; but we are happy to state that he was comfortable after his arrival in the city. The passengers down, were brought on in another car.

## THE REGISTER.

PHILADELPHIA, NOV. 22, 1834.

On the night of the 15 and morning of the 16th, there was a considerable fall of snow. The streets and roofs of houses were covered to the depth of several inches, and some few sleighs were passing through the streets. The 17th was a very unpleasant day, rain and sleet followed the snow storm during the whole day.

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# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 22. PHILADELPHIA, NOVEMBER 29, 1834. NO. 360.

## RIGHTS OF UNINCORPORATED SOCIETIES.

*The Opinion of the Circuit Court of the United States, in and for the Eastern District of Pennsylvania, on the Will of SARAH ZANE, a member of the Society of Friends.—April term, 1833.*

(Continued from page 329.)

This is the effect produced, which has given to that statute its importance: those statutes interposed barriers to the vesting and enjoyment of property for pious and charitable uses, which the 43 Elizabeth removed, so that they became opened for the exercise of the equity powers of courts of chancery, as completely as if no previous disability by statute had ever existed; and this is the reason why it has ever been considered in England, as the Magna Charta of charities; that being an enabling statute, it repealed all disabling ones.

If we assume that this leading feature, this vital spirit of the statute, has not been adopted here, we should be bound to consider the prohibitory statutes which it repealed, as in force here in all their rigour; if we follow the report of the judges made in 1808, as explained and adopted by the declaration which they have made in subsequent cases, in connection with the opinion in *Wiltman vs. Lex*, above quoted, we must declare the law of mortmain to apply to all donations of land to corporations, for pious and charitable uses, without the benefits of the statutes of Elizabeth or William III. to mitigate their severity, or save the forfeiture. Strange as this result may be, it is unavoidable, if the protection which these statutes, thrown around charities in England, does not exist here, or has been taken away by the statute, common law, or usage of the state. They operate equally on all societies, whether incorporate by prescription, by special act of assembly, or the charter of the proprietary; so that the enjoyment of their estates depend on legislative discretion, in granting a dispensation of the forfeiture, accruing by an alienation to bodies, and for purposes not only valid, but favoured, encouraged, and protected in England, without license, under the 43 Elizabeth, or by the license of the king under the 7 and 8 William III. This latter statute was passed shortly after the first settlement of this colony; its words show the policy of the times to be favourable to all charitable institutions, and connected with the political history of England, its passage is a striking illustration of the disposition of parliament to make them its peculiar favourites.

One of the great principles of the revolution of 1688, was a denial to the king of the power of dispensing with, or suspending of laws, or the execution thereof. It was the first item of abdication of the crown by James II. as set forth by the Lords and Commons in convention, that he had exercised it without consent of parliament; and a declaration that it was illegal, was the first and second items of the bill of rights. 3 Ruff. 440. I. which was made a fundamental law of the kingdom.

There could, therefore, be no stronger indication of the spirit of the times, in favor of charities, than by authorizing the king to dispense with the statutes of mortmain in their favor; making it an exception to a great rule and principle of government; and we deem

it incredible, that a less liberal spirit could have entered into the legislation of the colony: yet if the statute<sup>s</sup> of mortmain have been adopted, there can be no power to dispense with their forfeiture, but by the legislature. The principle of the revolution of 1688, has been carried into all the American constitutions; no Governor can exempt a corporation from the forfeiture of mortmain by his license or charter, with a clause of *non obstante statuto*; and no Act of Assembly before or since the revolution, has exempted charities from the effects of mortmain. There are, therefore, but two alternatives for us to adopt; the first, that the statutes of mortmain have been in force from the first settlement of the province—that the statutes, which in England have mitigated their rigor, and made them in some measure conformable to our usage and condition, the laws and constitution, have not been adopted, and that there has never been any power to dispense with the forfeiture, unless in the party to whom it accrued. Or that they never were introduced by our ancestors, as any part of their code. In the choice of these alternatives, we cannot hesitate—we cannot look at one item of legislation upon the subject, whether of supreme or subordinate authority, or into the ancient customs and unbroken usage of the state, without at once perceiving the total repugnance between the whole policy of the state, and the existence of British statutes, which would compel us to declare, that every house of worship erected in the colony from the time of William Penn, stands upon ground, forfeited by a conveyance to a religious society or corporation. It was due to the weight of judicial authority, which bore on these questions, to examine them through the details of the law of England, as well as of the state, before we would venture to dissent from it; it was due especially to the high legislative authority which has declared, what in its view was the policy and law of the state, as to the disabilities of corporations. The thirty-fourth section of the judiciary act, makes it our duty to make state laws the rule of our decision, unless they are repugnant to the constitution, laws or treaties of the United States. The preamble to the act of 6th April last, contains a plain declaration, that “no incorporation though lawfully incorporated or constituted, can in any case, purchase lands within this state, either in its corporate name, or names of any person or persons, whomsoever, for its use directly or indirectly, without incurring the forfeiture of said lands to this commonwealth, unless said purchase be sanctioned and authorized by an act of the legislature thereof; but every such incorporation, its feece or feecees, hold and retain the same subject to be divested or dispossessed at any time by the commonwealth, according to due course of law, Pamphlet Laws, 167, 8. On the other hand, we have the supreme law of the state in two constitutions, declaring, one that the declaration of rights is hereby declared to be a part of the constitution of the commonwealth, and ought never to be violated on any pretext whatever; the other, that every thing contained in the bill of rights is excepted from the general powers of government, and shall for ever remain inviolate; among these rights are enumerated, those of “all religious societies, or bodies of men heretofore united or incorporated for the advancement of religion and learning, or for other

pious and charitable purposes, which shall be encouraged and protected in the enjoyment of the privileges, immunities, and estates, &c. in the constitution of 1776, and "the rights, privileges, immunities, and estates of religious societies and corporate bodies," are by that of 1790, declared to remain as if the constitution had not been altered, and that the first article of the schedule expressly saves the rights of incorporations.

We have felt it our duty to consider the law of the state to be as thus declared, and we have been unable to bring our minds to any other conclusion, than that any English statute which impairs the right of any corporation, to enjoy an estate for its own use, is entirely inconsistent with the usage and constitution of the state, and could never have been in force by adoption, without deranging the whole system of policy, built up by a uniform course of the common law and legislation of the state for a century and an half.

If, however, we have not succeeded to that extent, we apprehend there can be little doubt that these propositions may be considered as established. 1. That construing the legislation of the state by the rules which have been applied to the 43 Elizabeth, the statutes which would prevent the effectuation of any objects declared lawful, and by any disposition made valid and confirmed by law; must be considered as repealed so far as they embrace these objects and dispositions. 2. That conveyances and devises of land for religious, charitable, literary, and public purposes, must be taken to be within the meaning of the act of the 6th April, a purchase "sanctioned and authorized by an act of the legislature." 3. The constitution is an act of the supreme legislature of the state, which authorizes all societies or bodies of men, united or incorporate, to hold and enjoy to themselves, and in their own names and right; and the acts of 1730, 1818, and 1825, are legislative sanctions of their right to hold and enjoy lands, money, and chattels, for all these purposes.

We should have rested satisfied with results so satisfactory to our minds as these, if they had not been in some respects at variance with the understanding of the supreme court of the state, as to the law of mortmain, and the decision of the court in the *Baptist Association vs. Hart*. Opposed to such authority, it would have been our duty to have surrendered our own judgment, unless we had found it supported by the constitution of the State, and the United States.

Bound to decide on the laws of a state, as the courts of a state do, we must look to that which is supreme, as the only rule of our decision, where its language is plain; in its application to this case, it cannot be mistaken; nor can we overlook the first amendment to the constitution of the United States, which, in our opinion, wholly prohibits the action of the legislative or judicial power of the Union on the subject matter of a religious establishment, or any restraint on the free exercise of religion. We know of nothing which would so directly tend to infringe this prohibition, as a law to declare that no religious society should be capable of enjoying land for the purposes of sepulture, worship, or charity, without a license from the State; if the legislature can seize it as forfeited, they may impose the most effectual restraint on religious worship, by taking from the society the ground whereon, and the building in which they celebrate it; and no preference of modes of worship can be so repugnant to the rights of conscience and equality of religious right, as to license one society to do what they prohibit to another.

With such rules for our guide, we could follow no other.

The objection to the devise of the eight acre lot is thus narrowed to the want of residence of some of the members of the yearly meeting in the state. This is founded on the act of 1730, which is confined to religious societies within the province.

In the case of the *Methodist congregation vs. Remington*, the supreme court say, "If the trust before them

is to be sustained only by the enabling provisions of the law of 1730, it must fail. On the other hand, it is fair to say, that though it derives no support from the statute, it is not necessarily prohibited by it; for it is an undoubted rule of construction, that an affirmative statute such as this, does not take away the common law, and there was certainly no absolute prohibition of such a trust by the common law, or any previous statute." The objection is, therefore, not sustained by this decision, still less by the opinion in the case of the *Baptist Association vs. Hart*. The court declared that a devise in Virginia to a charity in Pennsylvania, would have been good if the plaintiffs had been capable of taking; 4 Wheaton, 27, 29, and is in direct opposition to the common law in relation to bequests of personal property for charitable purposes, to be expended in Ireland. 1 Brown's Chancery, 274, Scotland, 1 Brown's Chancery, 571, Amb. 236, 14 Vezey, junior, 537, 16 Vezey, junior, 337, or for the support of a bishop in America, 1 Brown's Chancery, 444, which have been held to be good. 3 Peters, 500-1-2.

The yearly meeting of Philadelphia is a protestant religious society, which has existed from the settlement of the colony, with known and recognized capacity of taking and enjoying property according to the law and usage of the province and State, as well as the principles of the common law. They must be considered as a body politic or corporate by prescription, possessing and enjoying the franchise of succession, with the same rights of property as a natural person does by inheritance.

We cannot impair the rights of the body united by their franchises, by inquiring into the separate capacity of its component members. They might be in part persons who could not hold for their separate use; but that would not change the character of the society, or affect their constitutional rights as a body united for the purposes of religion and charity, located within the State; and as such they would come within the equity if not the words of the law of 1730. Be that as it may, they cannot be excluded from the protection of the constitution and usage, in the absence of any law requiring the residence of all its members within the State, or any rule of the common law, which imposes any disability upon the citizens of one state, holding property in any other State, as its own citizens may do.

The objection to the bequests of money to the Quaker societies in Maryland, Virginia, Ohio, and to the citizens of Winchester, assumes a different shape.—Their alleged incapacity arises from their being composed wholly of the residents of other states, which must be tested by the law of the domicile of the testatrix. There is none which denies to the citizens of other states any rights of property which can be enjoyed by the citizens of this state under its constitution and laws which declare them inherent in all persons. The laws for the enforcing the execution of trusts extend to all "personal property vested in any person or persons to be applied by them to any religious, literary or charitable use or uses," and the *cestui qui trust* or other person intrusted in the execution of the trust may apply to the courts of the state to compel the trustees to account or to prevent the failure of the trust.

The constitution of the United States declares, that "The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states;" this instrument was adopted by the same power which established the constitutions of the several states, and is a part of the supreme law of each, as fully as if it was incorporated in its body. We must take it therefore as a grant by the people of the state in convention, to the citizens of all the other states of the Union, of the privileges and immunities of the citizens of this state; no law of the state has given it any construction which in any way restricts its operation, and it is not the duty of any federal court to so expound the constitution, as to weaken the bond existing between the states which

have established a "general government of the Union," a "federal government of these states," by restraining the grants of rights or powers within limits narrower than the tenor and purport of the words used, according to their common acceptation.

"It cannot be presumed that any clause in the constitution is intended to be without effect, and therefore such a construction is inadmissible, unless the words require it." 1 Cranch, 274-6. This clause is copied from the 4th article of the old confederation, and is one of the most important in the whole instrument, it becomes senseless if it is not applied to the rights of property. The political rights of the citizens depend on the laws of the respective states, Art. 1, Sect. 2, clause 1, Const. of the United States, rights accruing by contract cannot be impaired in their obligation by state laws, 1st Art. Sect. 10, and personal rights are protected by the 2d and 3d clauses of the 9th sect. 1st. Art. of the Constitution and the 9th amendment; leaving no subject, on which this clause can operate except property.

The words "privileges and immunities" relate to the rights of persons, place or property; a privilege is a peculiar right, a private law, conceded to particular persons or places, 7 Comyn's Digest by Day, 113. Privilege A. whereby a private man, or a particular corporation is exempted from the rigor of the common law. Cowell, Int Tit. Privileges; as converting aliens into denizens, whereby some very considerable privileges of natural born subjects, are conferred upon them, or erecting corporations whereby a number of private persons are united and knit together and enjoy many liberties, powers and immunities in their political capacity, which they were utterly incapable of in their natural. 1 Blackstone's Commentary, 272.

Among the privileges of the citizens of every state, is that of exemption from the law of alienage, though not born in the state; and every body of private persons united or incorporated, have the franchise and immunity of enjoying estates in succession in this state; these are exemptions from the rigor of the common law, which the citizens of other states may enjoy in this, as fully as the citizens of this state can. We can therefore make no distinction between these bequests, and those to societies located in the state; the disability of alienage cannot be applied to the citizens, societies or corporation of other states, and they may enjoy property as it can be enjoyed of right by those which are within the state.

The next questions that arise on this will, are the uses for which the various dispositions are made.

As the Supreme court have declared it a settled point, that the 43 Elizabeth is not in force, we must endeavor to ascertain from other sources, what uses are pious and charitable, as distinguished from those which are deemed superstitious or otherwise invalid.

The general course of the law of England, as to the transmission of property, was declared in the charter to Penn<sup>a</sup> to be the rule in the colonies, till altered or repealed, and the common law was recognized by the act of 1718 and 1777, as in force as well as such statutes as had been adopted; it is also a conceded principle, "that the colonists take with them such laws of the mother country as are useful and suited to their condition." 1 Journals of Congress, 27. It will be necessary therefore to trace the law of charities through the English statutes which preceded the 43 Elizabeth, as well as the common law, so as to determine what was its general course, how far it has been adopted in the written law of this state, or has been the basis of its usage independently of the enabling or enacting provisions of the 43 Elizabeth, and 7 and 8 William, III. assuming them not in force as adopted statutes.

The following statutes on the subject come strictly within the description of the Supreme Court of the United States in 4 Wheaton, 31; they embrace cases within the statutes of mortmain, and gifts to corpora-

tions, and are analogous to the 43 of Elizabeth in all their features; so that there can be no reason for not giving them the same effect and construction as has been given to that statute.

The following are uses declared to be pious and charitable, by a series of statutes commencing in 1285, and affirmative of the common law.

The statute 13 Edward I. chapter 41, enumerates the *maintenance of a chantry, lights in a church, divine service, and alms.* Keble, 49.—1 Ruffhead, 106. Fitzherbert's Natura Brevium, 465, 2 Coke's Institutes, 467.

The statute 17 Edward II. *divine service, the defence of Christians and the church, liberal alms giving, relief of the poor, hospitalities, and all other offices and services before due, by whatever name they are called.* Keble, 56-7.

The statute 15 Richard II. chapter 6: *the poor parishioners of the churches; the endowment of a vicar to do divine service, inform the people, and keep hospitalities.*—Keble, 181: 1 Ruffhead, 402. S. P. 4 Henry IV. chapter 12, Keble, 198.

The statute 2 Henry V. chapter 1: *the sustenance of impotent men and women; lazars; men out of their wits, and poor women with child; the nourishing, relieving, and refreshing other poor people.* Keble, 212. 1 Ruffhead, 486.

The statute 23 Henry VIII. chapter 10: *obits, masses, and lights, to be kept not more than twenty years; the discharge of tolls and customs in a city in case of the poor, and the cleansing of the streets.* Keble, 403-4. 1 Ruffhead, 171-2.

The statute 37 Henry VIII. chapter 4, section 5: *alms to the poor, and other good, virtuous, and charitable deeds.* Keble, 608.

The statute 1 Edward VI. chapter 14: *erecting grammar schools to the education of youth in virtue and godliness; the augmentation of the universities; better provisions for the poor and needy; the support of a school-master, preacher, priest, vicar; the maintenance of pier walls and banks, and the relief of poor men being students or otherwise.* Keble, 636, 44. 2 Ruffhead, 397, &c.; *the repairing of bridges and highways, and setting poor people to work.* 2 and 3 Edward VI. chapter 5. Keble, 651. 2 Ruffhead, 412. 18 Elizabeth, chapter 20. Keble, 903-4. 2 Ruffhead, 623: *the relief of the poor of every parish.* 5 and 6 Edward VI. chapter 2. Keble, 676. 2 Ruffhead, 639.

*The resuscitation of alms, prayer, and example of good life in the realm.* Keble, 730. 2 Ruffhead, 481.

*The relief of prisoners,* 14 Elizabeth, chapter 5.—Keble, 847. 2 Ruffhead, 606; *the repair of churches,* 13 Elizabeth, chapter 10. Keble, 839. 2 Ruffhead, 595.

*The maintenance and relief of the poor in houses of correction, impotent and maimed soldiers,* 29 Elizabeth, chapter 6, section 7. Keble, 894. 2 Ruffhead 656.—35 Elizabeth, chapter 1. Keble, 907. 2 Ruffhead, 672; *and hurt and maimed soldiers and mariners.* Keble, 911 2 Ruffhead, 676.

*The maintenance of houses of correction, abiding houses, and stocks and stores therefor.* 35 Elizabeth, chapter 7. Keble, 913. 2 Ruffhead, 678.

*The founding and erecting hospitals and houses of correction, for the relief and sustenance of poor, maimed, needy or impotent people.* 39 Elizabeth, chapter 5. Keble, 921. 2 Ruffhead, 687. 2 Coke's Institutes, 120.

*Donations to hospitals, to colleges, and other places, founded, ordained, for the relief of poor, aged, and impotent people, and maimed soldiers.*

*Schools of learning; orphans, or such other good, lawful, and charitable intents and purposes; reparation of highways and seabanks; the maintenance of free schools and poor scholars; orphans and fatherless children; and such like good and lawful charities.* 4 Coke's Institutes, 166-7.

To which may be added the cases not enumerated or recognized by the words of the statutes, but are within their equity, by adjudged cases. *The erection of chapels of ease*, as members of parochial churches; 110b. 123-4; or *cathedral churches*. Swinb. 66. *Gifts for the advancement of religion, learning, piety, and public utility*. 11 Coke's Rep. 70. b. 73. b. 10 Coke's Rep. 26. 8 Coke's Rep. 130. b. *Poor men decayed by misfortune or the visitation of God*. Moore's Reports, 129. *Persons imprisoned for conscience sake*. Duke by Bridgman, 131. *A bell for a church; pulpit cushion and cloth, and building a session house*. Popham, 139. *To maintain scholars who should use holy orders*. Tathill, 61-2. *The marriage of poor maidens*. 1 Coke's Reports, 26.—*Making a stock for poor laborers in husbandry, and poor apprentices*. 1 Coke's Reports, 26. a. Kible, 1040. 3 Ruffhead, 74, preamble to 7 Jac. chapter 3. *Such things as concur in decency and order with the intent of the founder*. Duke B. 155. The 43 Elizabeth, chapter 4, enumerates twenty-one cases as classed by Lord Coke, in 2 Coke's Institutes, 711, which were all comprehended in preceding statutes, or the cases above referred to, either in express or general terms.

This review exhibits a striking coincidence between the general course of the laws of England and Pennsylvania, in the designation, by both of what are deemed and recognized to be the uses and purposes of piety and charity, protected and encouraged during the most intolerant times.

The same coincidence will appear in tracing to their origin in the British statutes, and decisions of their courts, the rules and principles upon which donations for such uses have been construed and governed as well as the remedies provided for their enforcement.

The statute 17 Edward II. *de Terris Templarium* established and ordained as law for ever. That lands which had been given and enjoyed for pious and charitable uses, should not escheat to the king or mesne lords of whom they were holden, on the extinction of the order of Templars, by whom they were holden for such uses.

That they should be given to other men of holy religion, to the end that they may be charitably disposed of to godly uses.

"So always that the godly and worthy will of the givers be observed, performed, and always religiously executed." Keble's Statutes, 86, 7. 8 Coke's Reports, 131, h. 10 Coke's Reports 34 b. Coke's Institutes 431. 2. *Fide* 3 Coke's Reports, 3. b. 7 Coke's Reports, 13 a.

The 37 Henry VIII. ch. 4, and 1 Edward VI. ch. 14, directed and empowered the king to dispose to the good, virtuous, and godly uses specified in those acts, such parts of the suppressed lands, or their rents and profits, as had before been given to such purposes and misapplied.

Also to dispense, change, and alter donations given for superstition, to pious and godly uses, or to direct it to be done by the commissioners. The commissioners were directed to inquire what property had been given by deed or will to poor persons intended to have continuance for ever out of the chantry lands, and to make such assignment thereof, that the money should be paid to them according to the conveyance or will of the donor, and that all charges on those lands for charitable or pious uses, should be paid by the king's receiver.—Sections 12, 13.

The commissioners were directed to execute their commission favourably and beneficially towards such uses and purposes, and their acts so made were declared as valid as if done by an express act of parliament.—Keble's Statutes, 636. 44.

The proviso in the 5 section of 39 Elizabeth, ch. 5, prohibited it the division of the funds of any hospital to any other purposes than those appointed, and declared that such construction should be put upon the act as should be most favourable to the maintenance of the poor

and repressing all evasions of the act. 2 Coke's Institutes, 721, 2. The commissioners were directed to make such orders and decrees as the said good and charitable uses may be fully observed in most full, ample, and liberal sort, which not being contrary to the orders, decrees and statutes of the donors, or founders, shall stand good according to their tenor and purport. 39 Elizabeth, ch. 6. 4 Coke's Institutes, 167.

The laws for confirming patents and grants from the crown, declared them to be good and available according to their tenor and effect, their words and purport, and to be expounded most beneficially for the patentee, without license, confirmation or toleration, any misnomer, misrecital, or misdescription of the premises, or a corporation, or any lack of attornment, livery of seisin, or misnaming any person or body politic to the contrary notwithstanding. 18 Elizabeth, ch. 2. 43 Elizabeth, ch. 1. Keble's Statutes, 852. 935. 2 Ruffhead's Statutes, 612. 702.

These statutes were evidently the models from which the colonial acts of 1705, for confirming deeds, wills, and sales, under acts of assembly, and the law of 1711, confirming patents, were drawn: the rejected law of 1712, in relation to religious societies, contains a most admirable summary of the effect of the general course of the statutes of England, as they had been construed by courts of equity; and the powers conferred on the colonial courts by the acts of 1700 and 1710, shows the intention of the legislature, that they should be exercised to the same extent and in the same manner as they were by the high court of Chancery in England. It is, indeed, impossible to compare the laws of the two countries on the subject of charities, without being struck with the strong analogy between them; the substance of the statute and common law of England was adopted in the early colonial laws, entered into the custom of the province, and will be found condensed in a few words in the 45th section of the constitution of 1776, with this marked difference: That what the 43 Elizabeth has done by implication and the construction given by courts, the constitution has done by a direct affirmative declaration of rights. What was left imperfect was finished by the law of 1777, by expressly restoring the common law, repealing all laws inconsistent with the rights declared in the constitution; and declaring all colonial laws then in force and consistent with it to remain in force; this was going farther than the words of the 43 Elizabeth, which contained no repealing clause.

The law of 1791, giving the powers of self incorporation to all religious, literary, and charitable societies, was an improvement upon the pattern of the 39 Elizabeth, ch. 5, and the laws for the execution of trusts was an adoption of the whole course of chancery, in administering trusts for the use of charities; so that we may safely conclude that the English system of charities, as it was at the settlement of the colony, has become naturalized here, not only as to the principles of equity, applied to the 43 Elizabeth, but the substance and effect of the enabling provisions of all the statutes, including those of Elizabeth, by which the common law as to the charities was restored in England, and brought here by the colonists unincumbered with restrictions.

The course of the law of England providing remedies for the enforcement and suppressing the abuses of charities, are next to be considered.

The statute 13 Edward I. chapter 41, gave the following remedies where the lands were aliened; if the king is the founder, he shall seize and hold the lands, and the purchaser shall lose his money; if a private person is the founder, he or his heir shall have his writ to recover the same land in demesne; if the lands are not aliened, but the alms withdrawn for two years, he shall have an action by writ of cessavit, Keble's Statutes, 49. 1 Ruffhead's Statutes, 106. Keble's Statutes, 30, 1. 1 Ruffhead, 66. Littleton, section 136. Co. Litt. 95, 6.

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By the 2 Henry V. ch. 1. Hospitals were placed under the correction and reformation of the ordinary, by the ecclesiastical law. Keble, 212. 1 Ruffhead, 486. When the king was founder, the chancellor was visitor, Co. Litt. 95, b. 95 a.

By the 27 Henry VIII., all lands held by hospitals, chapels, &c., which came within the purview of the laws for the suppressions of the church lands, were placed under the supervision of the court of augmentations, who decided exclusively, all cases concerning them, as well as charities charged upon them where the king was concerned, or could be prejudiced; but all controversies between subjects, were to be decided by the courts of common law. Keble, 608, 9. 2 Ruffhead, 371; all copy-hold lands, and all lands held by the license, assent, grant, or confirmation of the king, were excepted from the operation of the law, Keble, 644, 5.

By the 39 Elizabeth, ch. 4. The chancellor was directed to appoint commissioners, to examine into the donations made for certain charitable uses, and correct their misemployment. Keble, 920. 2 Ruffhead, 687.

The 39 Elizabeth, ch. 6. directed commissioners to be appointed, to inquire of lands and goods given to any charitable uses, which had been misemployed, and to reform and correct their abuses. The party deeming himself aggrieved, may complain to the chancellor, who shall judge thereon according to equity. 4 Coke's Institute, 167.

This act was repealed by the 43 Elizabeth, ch. 9, but the proceedings under it, were confirmed. Keble, 648; the adoption of the 43 Elizabeth, ch. 4, as a substitute for it, having made it inoperative.

These statutes formed the law of charities in England before the 43 Elizabeth, and made a system which has received but little improvement, either by that, or any subsequent statutes; the rules of their construction adopted by all the courts of England, have ever been of the most liberal tendency, to establish charities, and correct the abuse or diversion of the funds devoted to their support.

The course of the common law on charitable and pious donations is in accordance with the spirit of the statutes before recited, and the rules established for their construction.

It is an admitted principle, that the personal property of decedents, was disposable to pious uses, for the good of the soul of the deceased; the children and kindred had claims upon the trustees, but came in under the title of charity; the distribution was made by the ordinary at his discretion—to charitable uses in particular, or for the good of the soul of the deceased, according to the circumstances of the estate. 2 Blackstone Commentary, 417, 2. Forrest, 190. 4. Coke's Institute, 336, 7. Comyn's Digest by Day, 612. N. 13. Moore's Rep. 822. pl. 1111. 7 Vezey junior, 69.

The executor held the surplus to account to pious uses, Carey, 28, 29. A *feme covert* executrix, may give the goods of the testator for the good of his soul. Perkins, section 7. cites 13 Edward III.

Any person who has power and capacity to make a grant or devise, may do it for pious and charitable uses. 7 Day's Comyn's Digest, 612. B. Duke, 132. A testator by will, directed lands which were devisable by custom, to be sold by his executor, and the money to be distributed for the good of his soul; the executor held the land for two years without a sale, which the court held to be a breach of the intention of the testator, and they construed the will so as to make a condition, as such appeared to be the intention, the heir entered for the breach and recovered. 38 Ass. pl. 3. Liber Ass, 221. Plowden, 345. 523. The king gives land to the good men of D. which was no corporation, before, rendering a certain rent, and the residue to repair a bridge, the king released the rent, which being the cause of their corporation, would seem to have determined it, yet for the preservation of the charitable

use, they shall continue a corporation for that purpose only. Duke on charitable uses, by Bridgman, 134 cites 40 Ass. 26, a gift to a parish for a charitable use by deed, is void, but a devise by will is good, and the churchwardens and overseers shall take in succession. —*Ibid.* Land was devised to the Church of St. Andrew's in Holborn, which was not capable of taking and holding in mortmain, but the court on an *ex grati querela* brought by the parson to execute the devise (F. N. B. 441. L.) awarded to him, considering it to be the intent of the will, that the parson should have it, and not the Church, and construed the words so as to preserve the intent, and not to destroy it, decided 21. R. 2. Perkins, section 509. Plowden, 523. acc. 17. Sergeant and Rawle, 92. 9 Cranch, 43, 328. 1 Atkins, 437. 3 Peters, 119. 146, 7.

A declaration by will, that a feeoffee shall stand seized to the use of C., is a good devise of the land by intention, it being that C. should have the land. Dyer, 323, pl. 29. 1 Leo. 313. 15 Elizabeth.

A gift of chattles to parishioners who are no corporation is good, and the churchwardens shall take in succession, for the gift is to the use of the church. 37 Henry VI. 30. 9 Cranch, 328. 17 Sergeant and Rawle, 92. S. P. 1 Pennsylvania Rep. 49. 51.

Courts will labour to support the act of a party, by the art or act of the law. Hobart, 123. 5. S. P. 3 Peters, 119.

In 4 and 5 Philip & Mary, a devise was made of lands to Trinity College and their successors for ever, for founding grammar schools for poor scholars, and held good by the equity of 1 and 2 Philip & Mary, ch. 8, which suspended the statutes of mortmain for twenty years. Dyer, 255, b. pl. 7. 1 Coke's Reports, 25. 6. decided in 8 and 9 Elizabeth, C. B.

Lands devised to employ the profits to find a priest to celebrate mass for the good of the soul of the testator, and other souls, as long as the laws of the land would suffer it; and if the laws prohibited it, then to the use of all the poorest people in six parishes, with power to the devisees to dispose of the profits at their pleasure to any of these purposes—the devise was held good, and not to be within any of the statutes. Anderson, 43. Croke's Charles, 108. 2 Chancery Cases, 18—decided 3d Elizabeth.

So if a devise to sustain poor men decayed by misfortune or under the visitation of God. Moore's Reports, 129. pl. 277, decided 24, 25 Elizabeth; or to relieve such as were imprisoned for conscience sake. B. Duke, 131. Adj. 41 Elizabeth.

A devise to an idiot for a charitable use, though inoperative in his life time, takes effect when the land comes to the hands of his heir. Duke, B. 134.

A gift to find a chaplain *ad divina celebranda* is not for a superstitious use, and though not within the 43 Elizabeth, is good. Carey, 39. B. Duke, 154. Adj. 18. J. ac.

So for finding a bell for a church, a pulpit cushion and cloth—for the support of the poor, or building a session house—these are good acts of piety, charity, and justice. Popham, 139.

So where land was devised to divers persons and their heirs, in trust and confidence in them, out of the profits to erect a free school and to pay so much to the master yearly, and so much to the usher, and £20 per annum to five poor men. Croke's Elizabeth, 288. *Martindale vs. Martin*. Adj. 34, 5. 34 and 5 Elizabeth, K. B.

The same will contained another devise in trust—That a preacher shall be found for ever to preach the word of God in the church of St. Mary, in Thetford, four times a year, at ten shillings a sermon—both clauses of the will were adjudged good, by the Barons of the Exchequer and the Judges of the K. B., who after 10 often argument agreed, that the 23 Henry VIII. ch. 10 was to be taken to extend only to superstitious uses: by the words of it, in the very body of the act, and at the be-

ginning, as by the time it was made—for at this time they began to have respect to the ruin of the authority of the Pope and the dissolution of the abbies, chauntries and the like." Popham, 6, 7, 8. *Gibbons vs. Martynoke and Marston*, Adj. 34 and 35 Elizabeth.

So of a devise for a free school, and the support of a master thereof, and certain alms men and alms-women for ever; the devise was held to be valid, though it did not take effect owing to the breach of the condition on which it was made to depend. 1 Coke's Reports, 22. 25. Porter's Case, 34 and 35 Elizabeth in Exchequer.

In the case of the *Mayor and Burgesses of Reading vs. Lane*, a devise was made to the poor people maintained in the hospital of St. Leonards, in Reading; the objection to the devise was, that the poor not being incorporated, were not capable of holding lands, but it was decreed, that as the plaintiffs were a corporation capable of holding lands in mortmain and governed the hospital, the land should be assured to them for the use declared in the will. Tot. 7. 42. Elizabeth, lib. A. fol. 706. Tot. 32. Duke B. 134. b. 361.

Charities have always been favoured in the law, by excepting them when fastened on lands, from ordinary rules; where they are charged with services for the advancement of religion or justice, works of devotion, piety, or charity—although the lord purchases parcel, yet the entire services remain. 6 Coke's Reports, 2 a. 36 Elizabeth in the court of Wards.

As to make a bridge or beacon, repair a highway, 6 Coke's Reports, I. b. 2 a. to marry poor virgins—to find a preacher in a church—or the ornaments of a church. 6 Coke's Reports, 2a,—or to bind a poor boy an apprentice—or to feed a poor man. Coke on Littleton, 149. a.

The law was considered so well settled that Lord Coke in 34 and 35 Elizabeth, states unqualifiedly, that any man at this day may give lands in trust for any charitable use, to any person or persons and their heirs. 1 Coke's Reports, 26, b. Shepherd's Abridgment, 1066.

They are prohibited by no statute, and none were ever intended to overthrow works of charity, but to prohibit their abuse. Coke on Littleton, 342. a.

The statutes of superstition did not extend to corporations, which were not both religious and ecclesiastical. 2 Coke's Reports, 48, 9., gifts to lay hospitals, remained valid—bishops, deans and chapters, parsons, vicars, abbots, churchwardens, &c. could hold lands notwithstanding the statutes of mortmain, as they were not dead persons in law, but had a capacity to grant or to hold land, to sue and be sued. 1 Blackstone's Commentaries, 472. 5. 2 Blackstone's Commentaries, 109.

Though they were religious persons, they were also secular, in which capacity, they were considered as natural persons, or bodies politic, and could purchase and hold lands. Coke on Littleton, 94. a. b. Perkins, section 31. 35. 55. 51., before the statutes of mortmain, and can now hold them in all cases where other corporations can.

The capacity existed at common law, and was not taken away by the statutes of mortmain, where the uses and purposes were declared good by the statutes providing a remedy, or correcting abuses, which in the language of the Supreme court, removed all obstructions and disabilities which in any way prevented the donation from taking effect, and restored them to their common law capacity. 4 Wheaton, 31.

Charities were thus left free for the exercise of the jurisdiction of the respective courts, who in all cases gave effect to the disposition of a testator, whenever his intention was expressed, or could be collected from the will, notwithstanding any defect in form, or the want of naming or designating an object to take; they would give it locality, and application to those persons or bodies who were capable if they could by any rea-

sonable intendment, be brought within the devise. As in the church of Holborn case, they shifted the devise from the church to the parson, because the church could not hold in mortmain, but as the endowment of a vicar or parson was good by the 15 R. II., and divine service by the 13 Edward I., and by 17 Edward II., it was awarded to him, and he held an inheritance in right of the church as a capable person, the church in effect holding for his use; so in the Reading case, they shifted the devise from the poor of the hospital, to the corporation which governed it.

The law books to the substance of the gift, and in favour of religion vests it in the party capable of taking it. 9 Cranch, 329, but without the right to alien it.—Wingate's Maxims. 341. pl. 26.

This consists in the enjoyment of the thing given, according to the intent of the donor. Courts of common law and equity, were astute in devising means of giving it application and effect; whenever the instrument would pass the legal estate, either to the trustee or *cestui qui trust*, or use, they supported the charity; the mode of establishment, or the distribution, was a circumstance in which they would relieve according to their respective powers, against any defects in the disposition by will or deed. Their action on charities, was not by any authority assumed from the necessity of the case, but the positive directions of the statutes; to execute and religiously observe the will of the donor, in the most ample and liberal sort, notwithstanding any defects or failures therein; the same rules were prescribed to the special tribunals and courts under whose governance charities were placed, and were applied as liberally in favor of a subject against the king, as between private persons.

A donation to a charity, therefore, could not only fail for want of a capable object, where there was neither a devisee to use, or in trust, or a *cestui qui use*, capable of holding; they took effect whenever a trust was created and vested in any body or person, who was named, described, or could be brought within the scope of the will, and was capable of holding either as *cestui qui trust* or trustee.

The cases in which these principles were established, were decided before the 43 Elizabeth, on prior statutes, or the rules of the common law; they have been approved and acted on by the Supreme court of this state in 17 Sergeant and Rawle, 91. 1 Penn, 51, and by the Supreme court of the United States, in 9 Cranch, 43. 53. 328. 9 Wheaton, 454 64. 2 Peters, 582. 3 Peters, 119. 6 Peters, 437; and the practical rules of construing the statutes of charities as laid down in 4 Wheaton, 31. are those which are to be found in cases not affected by the 43 Elizabeth, as well as those within it.

The remedies for evasions of the statutes and the abuse or mis-employment of charitable donations, were administered with the same liberality by courts of law before as after that statute, the equitable powers conferred on the courts which were to decide on claims for charitable uses out of the king's lands or revenues, evinces the favourable disposition of the king and parliament in their favour.

The benign principles of the common law were never displayed in brighter colours than in the course of the courts in the exposition of the statutes of Henry VIII., and Edward VI., for the suppression of superstitious uses and religious houses; if any want of liberality has appeared in later times to have entered into the jurisprudence of England on charities, it has arisen from overlooking the provisions, or disregarding the principles of their ancient statutes, which contain all that is valuable in the system, or adapted to the institutions of this country. The statutes of mortmain, of superstitious uses, and the restraints on corporations, are exceptions from the general course of the law of England; legal excrescences which were forced into it by the policy of the time, during the existence of tenures

in chivalry, the persecution of the Catholic church, and latterly, since the statute 9 George II., by a spirit of hostility to charitable donations by will, all of which are utterly repugnant to the spirit which pervades the common, the statute, and the constitutional law of this state. There is no case reported as adjudged by courts of common law against a gift to charity, where words of inheritance were used in a devise to private persons in trust, or for an use, or to any body or society, which had a head known to the law, as being capable of holding for any other use, by statute, charter or usage, local custom or prescription.

Perkins, section 510, refers to a case decided in 26 Edward III., of a devise of a remainder of the brotherhood of Whiteacres in London, to find a chaplain to pray for the soul of the testator; the brotherhood was not incorporated, or enabled to purchase and the remainder was held void. Perkins thus introduces this case, "But the commonality of a company which is not incorporated by the king's charter to purchase, &c., cannot take by devise," he states the case and concludes, "and know that the chief and supreme officers of the fraternity, corporation or guild are taken in law for the best men," &c.

These remarks lead to the ground of the decision.—The devise was of a remainder, which could not vest without words of inheritance to private persons, or to a corporation by succession; in this case there being neither, the devise failed on the ground that the commonality or brotherhood, having no politic capacity by means of a head or chief officer, could not hold an estate by succession, and no words of inheritance being used, the remainder in fee continued in the heirs of the testator, according to the rules before laid down from Shepherd's Touchstone, 235. 7, &c.

There was no franchise in the commonality, from which a corporation could be presumed, as in the case from B. Duke, 134, decided in 40 Edward III. the statute of Richard II. authorizing the endowment of a vicar or priest, had not been passed, and by the words of the devise, there was no ground to infer the intention to be that any church or parish should take or hold it, by a parson, overseer or churchwarden; so that there was no circumstance on which the court could lay hold to take the estate from the heir at law and give effect to the devise as in the cases referred to in 9 Cranch, 328, &c.

A learned judge considers this to have been a case which could have been aided by the royal prerogative exercised by the Court of Chancery, 3 Peters, 142, but it appears to have been one where the king had no interest or claim by statute, prerogative or tenure; the devise not taking effect, the estate remained in the heir of the devisor. The charity was not extinct as in cases under the statute of Templars, it never existed, because there was no devisee in whom the remainder could vest; the king therefore could not make a new appointment by his sign manual, 7 Coke's Rep. 36. a. nor could a Court of Chancery disturb the course of the common law, on any ground of equity; such a devise would not be aided in equity under the 43 Elizabeth, unless the brotherhood could be considered as a corporation by prescription, by some franchise or right to unite them. This case therefore cannot be considered as at all in opposition to those which have been referred to.

So far as the common law could be settled by the repeated solemn adjudications of the courts of Westminster Hall, we thus find it established from the time of Edward III. without any clashing decision. It only remained to add the sanction of parliament to these principles of the law of charity by a declaratory act to make them irrevocable. That was done in the case of the Thetford School devise which had been held valid in the two preceding cases in 34 and 35 Elizabeth.—Croke's Elizabeth, 288 and Pop. 6. 8. This devise was made in 9 Elizabeth, when the annual value of the land

was £35 per annum, it afterwards rose to £100; a private bill was exhibited in parliament, 7. Jac. 1. for the erection of the school, &c. according to the will, on which two questions were moved: 1. Whether the preacher, school-master, usher and poor should have only the said certain sums appointed to them by the founder, or that the revenue and profit of the land should be employed to the increase of their stipend, &c. 2. If any surplusage remained, how it should be employed.

The case was referred to the judges, and it was resolved, that the whole profits and revenue should be employed to the increase of the stipends, and if any surplusage remained it should be expended for the maintenance of a greater number of poor, and nothing should be directed to the use of the devisees, executors or heirs, or any private use, it appearing to be the intention of the testator to employ the whole in works of piety, charity, the maintenance and increase thereof, and the bill was passed accordingly. This was in accordance with the rule established in the statute de Templarium, quoted by Lord Coke at the end of the case; so always that the godly and worthy will of the donors, &c. 8 Coke's Rep. 130. b. 131. b. which was not a new rule introduced into the law by the act passed for the Thetford School, but as declared by all the judges in the case of Sutton's Hospital, in 10 Jac. was declaratory and explanatory of the common law, 10 Coke's Rep. 30 b. 34. a.

The right to take and hold the land devised for charitable uses with their increased revenues and profits being thus definitely settled by both the legislative and judicial power of the kingdom, it has never been questioned since the case of the Thetford School, on which the statute 43 Elizabeth had no bearing, and it is not even referred to in the report of the proceedings in parliament or the opinions of the judges on the law of the case as previously settled in Croke's Elizabeth 288. Pop. 6. 8.

The spirit of equity, which pervaded the law of charities, having been extended so as to bring within its protection not only the specific bequests of a testator, but the entire fund on which they were charged, it was not necessary for courts of equity to usurp any of the powers of a court of law, in order to effectuate a charitable donation, or to establish any rules or principles different from those on which the common law courts had acted with the sanction of parliament. Chancery had its appropriate jurisdiction, over cases of fraud, accident, and breach of trust, arising out of dispositions of property to purposes unconnected with charity; if the party had a right known to the law, but had no legal remedy, he could resort to the extraordinary powers of the court of Chancery for relief, according to its usage and settled principles, which applied to charities as well as other subject matters of its cognizance.

To have refused the same relief in the one case as the other, would have placed charities under the ban of the law of equity, though they were the favourites of the statute and common law: if there was any thing in the nature of charities, which would call for or justify the withholding equitable relief for matters not cognizable at law, without special authority by statute, it would have appeared in the course of the law for more than three hundred years before the 43 Elizabeth. Its history exhibits no feature of the kind; on the contrary, it exhibits the most convincing evidence, that it was peculiarly the duty of courts of equity to obey the injunctions of the statutes, to execute the intention of the donors and founders of charities, and not to suffer their donations to fail of effect, or to be abused when their intention could be ascertained.

The proceedings of courts of equity are very imperfectly reported, prior to the Restoration; some few cases are interspersed among the common law reports, but they are mostly referred to in the short notes of Carey and Tothill, which do not give the reasons of the court

for their decisions; we are therefore left to infer the principles which governed them from their acts thus briefly noted, and the elementary writers in or near the time, who have given the results in general terms. Enough, however, can be collected to show satisfactorily that the general course of equity before the 43 Elizabeth, in all cases of charities, was according to rules and principles as well settled and defined as on any other subjects, and was the basis on which the law now stands on the construction of that statute.

The jurisdiction of Chancery over trusts was never questioned by the most strenuous advocates of the common law. 2 Bacon Gor. 22. Harg. L. T. 431. Trent. Eq. 523. 2 D. C. D. 764.

It was coeval with their existence, and its exercise was indispensable in cases, where the feoffee having parted with his whole estate had no control over it at law; but being made in trust and on confidence, the powers of a court of equity were necessary to deal with the corrupt conscience of the feoffee who refused to execute the trust—the cases of its exercise from the time of Henry VI. are numerous. 4 Coke's Institutes, 84. Gilb. Ch. 19. 259. Bohun, C. C. 6. 1 Hu. Ab. 400. Lilly's Practical Register, 57, 8. 1 Rolls' Abridgment, 374. Mitford's Pleading, 120, 1.

The equity and use of the land being to go according to conscience, the subpoena for relief herein in this court is given accordingly. Shepherd's Abridgment, 201. pl. 13. 199.

Chancery would not only compel the performance of the trusts specified, but compel the feoffee to do other acts for the benefit of the feoffor or *cætui qui use* in a deed or obligation. Bro. Conscience, 5. 9. 27. fo. 162. 3. Carey, 13. 20, cites cases from the time of Henry VI. and Edward IV. It also remedied grievances arising from acts done which were prohibited by statute, but for which there was no remedy by the common law, as waste in certain cases. Car. 26 — Moore's Reports, 554. pl. 748. Fond. 32.

All cases of covin and fraud were cognizable in equity from the earliest times. Tothill, 62. Car. 20. 25. 6. 4 Viner's Abridgment, 487. Bro. Conscience, 8. Moore's Reports, 620, pl. 846. The performance of verbal promises in temporal matters. Bro. Conscience, 14. fo. 163. Tr. Eq. 45, the specific performance of contracts made by competent parties on good consideration, were also decreed against the party, his heir, and those claiming under him with notice. Tothill, 3, 4. 62. 69. 70. 92. 123. 106. Cro. Car. 110. Tr. Eq. 5. 2 Comyn's Digest by Day, 772.

"Equity will aid the perfecting of things well meant, and on good consideration," and "will reform in conscience that which is badly done," by supplying defects. Car. 23, cites 9 Henry VIII. Max. Eq. 57. 10 Henry VII. 201. pl. 13. It will prevent a contract from failing for want of a circumstance or ceremony. — Carey, 24, 5. as livery of seisin, attornment, surrender of a copyhold, enrollment of a deed, a misrecital. Tothill, 62. 12 Elizabeth, 79. 58 Elizabeth. Or a misnomer of a corporation. Tothill, 131. 32 Elizabeth, Car. 24. 44. Bohun C. C. 7. Max. in E. 57. Tothill, 27. 33 Elizabeth. Shepherd's Abridgment, 194, 5. Hobart, 124. Cro. Elizabeth, 106.

Though an estate cannot be created by covenant by law, it shall be made good in Chancery. Tothill, 84. 40 Elizabeth. So of a lease made to commence during the existence of a former one which would make it void at law. Tothill, 127. 25 Elizabeth. S. P. 128. 40 Elizabeth.

So where an exception was intended to be made, but it was omitted by mistake, Chancery supplied it. Tothill, 131. 37 Elizabeth.

So where a devise was void at law, by misrecital of a grant and by reason of an attornment, Tothill, 79. 33 Elizabeth, or a copyhold surrendered at a court held out of the manor where the land lay, 25 Elizabeth, Tothill, 45, or a conveyance sought to be avoided for want of

livery, Tothill, 42. 41 Elizabeth; Chancery will relieve though the defect would be fatal at law.

Where courts of equity act upon instruments to take effect in the life-time of the party who makes an agreement for a valuable consideration, they will make it as effectual for the purposes intended as the party had power to do, Sugden's Powers, 361, and in dispositions by will they will help against all defects which the testator had power to remedy. 1 Mad. Ch. 47. 9.

The principle on which they act is, that where the parties interested intended to contract a perfect obligation, though by mistake or accident, they omit the set form of words, so that there is no legal remedy; yet they are bound in natural justice to stand to their agreement, and "where there is substance, the law will apply the words to the intent, though they sound differently." Tr. Eq. 14. 1 Fomb. 147. Plowden, 140, 41. The imperfect execution of the contract not affecting the equity raised by the agreement. 1 Fomb. 37. 40, 41. Equity therefore will supply any defects of circumstances in conveyances, 1 Fomb. 38, where there is an intent to make a better assurance. Car. 44.

It has never been pretended that the course of equity on these subjects, was regulated or in any way affected by the 43 Elizabeth; it was founded on principles which were the origin and foundation of its jurisdiction, and became gradually developed according to the exigency of the times. There is no reason which would prevent their application to charities in all cases before subjects before the 43 Elizabeth, in the same manner as after; nor is there to be found any decision or authority other than late *dicta* denying it; so far as any traces of its jurisdiction over charities are to be found in the books, it seems to have been under the three heads of fraud, trust, and accident, and exercised without any doubt of the power in all cases where either circumstances existed.

In Tothill, 58, a case is reported as having been decided in 36, 7 Henry VIII. in which the court of Chancery decreed lands to the mayor and burgesses of Gloucester, to whom they had been devised for the use of a school and other purposes.

When a donor appointed lands and goods to be sold to maintain a charitable use, and did not appoint by whom the sale should be made, it was decreed to be made by persons named by the commissioners, and the money employed to maintain a charitable use according to the donors intent. Tothill, 30. Duke on Charitable Uses by Bridgman, 360. 41 Elizabeth.

In Sir Francis Moore's reading on the 43 Elizabeth, various cases are referred to, which show clearly that charities stood upon the same footing in equity before the statute as they have done since.

If a man devise that the executors of his wife shall pay money to be lent to young tradesmen, it is void, because he cannot charge the executors of his wife; but assets belonging to the husband were decreed to be liable to the charitable use. Duke on Charitable Uses by Bridgman, 136. 40 Elizabeth.

Land was sold in confidence to perform a charitable use, which the bargainer declared by his will, the bargain was never enrolled, yet the lord chancellor decreed the heir should sell the land to be disposed according to the use. *This decree was made, 24 Elizabeth, before the statute of charitable uses, and "was made upon ordinary judicial equity in Chancery, and therefore it seems the commissioners upon this statute may decree as much in the like case."*

If a reversion be granted to a charitable use, the particular tenant shall be bound to attorn by the decree of the commissioners, and it was said there are precedents in chancery where the lord chancellor had decreed and compelled the tenant to attorn. Sir Thomas Bromley decreed and compelled the terre tenant to give seisin of a rent seek to the intent the party may bring an assize. Duke on Charitable Uses by Bridgman, 163.

From these cases, and the remarks of Sir Francis Moore, it seems that the course of the commissioners and the chancellor under the statute was taken from the previous rules of judicial equity which were settled long before its adoption; it was penned by him by order of the house of commons, Duke on Charitable Uses by Bridgman, 122, which gives great weight to any opinion expressed by him, and to cases which he adopts as law.

He says no use shall be taken by equity to be a charitable use within the meaning of the statute, if it be not within the meaning and words of the statute; but the words may be construed by equity, as the *repairs of churches* extend to all convenient ornaments, and conveniences for the administration of divine service.

A gift of lands "to maintain a chaplain or minister to celebrate divine service is neither within the letter nor meaning of this statute, for it was of purpose omitted in the penning of the act, lest the gifts intended to be employed upon the purposes grounded upon charity might in change of times, contrary to the minds of the givers, be confiscated into the king's treasury; for religion being variable according to the pleasure of succeeding princes, that which at one time is held for orthodox, may at another be accounted superstitious, and then such lands are confiscated, as appears by the statute of charities, 1 Edward VI. chapter 14.

The effect of this omission is not to make the devise void, but to except such cases from the jurisdiction conferred on the commissioners by the statute. It is the same as a proviso which declares that no king in the act shall be construed to extend to colleges, &c. which is only to exempt them from being reformed by commission. Hbart, 136. So a gift for the maintenance of a chaplain or priest for divine service, will be a charitable use, and in the *direction of charity*, though not within the power of the commissioners. 7 Comyn's Digest, by Day. N. 10, p. 609, and cases cited.

As the statute gives to the chancellor no judicial power, except by appeal from the decree of the commissioners, it follows, that wherever he exercises any jurisdiction over cases not within the statute, or excepted from the power of the commissioners, it is independent of the statute; yet the uniform course of equity in such cases, has been to give relief by the same rules and principles as if the case had been included in its enumeration.

The lord keeper and the judges decreed, that money given to maintain a preaching minister, was a charitable use, notwithstanding it is not warranted by the statute, and that the same should be paid by the executor to such maintenance. *Pemher vs. Knighton*, Tot. 34. 15 Car. 1. B. Duke, 381, *Pinstud vs. Payer*.

Where an endowment was made for a vicar, but was void at law by some defects arising from the ignorance of the donor, it was decreed good in chancery, "For in cases of charitable uses, the charity is not to be set aside for want of every circumstance appointed by the donor,—if it should, a great many charities would fail." Nelson's Reports in Chancery, 40, 41. 15 Car. 1. *Joyce vs. Osburn*. So where by will a certain sum was charged upon land for a weekly sermon and a lecture, it was objected that the devise was void, "because the case was not in the statute," because "no person was named," "part of the land was held *per autre vie*, and not devisable," and "as the sermons had been discontinued, therefore the annuity ought to cease," but the chancellor held them to be good. 2 Chancery Cases, 18, 19. S. P. 32.

This principle has been followed up by the various cases, in which devises to chaplains, ministers, preachers, vicars, &c. have been held good, 1 Vernon's Reports, 249. 2 Viner's Abridgment, 105. 3 Peere Williams, 344. Swimb. 71, and chancery has decreed the execution of trusts in their favour, without any other authority than that on which they, through all

time, acted on matters within their appropriate jurisdiction. Vide 2 Pomb 219.

It was strongly illustrated in a case decided immediately after the statute. In 11 Henry 6, land was given with intent to find a chaplain to celebrate divine service, until the feoffor should procure a foundation, but was not so employed; the commissioners, under the 39 Elizabeth, decreed the land to the use,—the chancellor reversed the decree, because the use was not iniquitable by them under the statute, but by his chancery authority he did decree the land according to the original use. Duke on Charitable Uses, by Bridgman, 154. Carey, 39. 1. 3 Jac. 1.

A decree was made for the heir at law, against certain feoffees who had lands conveyed to them to maintain scholars who should use holy orders, Tot. 61–2. *Crofts vs. Crofts*. 3 Jac. 1. though this case is not within the statute.

The general principles adopted in chancery, that the performance of a charitable use is equally if not more favoured than the payment of debts, Duke on Charitable Uses, by Bridgman, 138, (from Moore's reading on the Statute, referred to as laid down in 42 Elizabeth,) shows the reason of these decisions to be founded in general rules, to carry the intention of the party into effect, for all lawful objects, especially favoured ones, as is forcibly expressed in a note in Tothill, of a case decided in 3–9 Elizabeth.

"The law of God speaks for him, equity and good conscience speak for him, and the law of the land speaketh not against him." Tot. 126.

This is the basis of equity jurisdiction; and as there is no subject to which the rule would apply with more force than to charities, so it will be found, that it has been the uniform course of equity to support charitable donations in all cases where they were not prohibited by law;—the inquiry has been, not what uses were authorized, but only what forbidden. Courts of original jurisdiction have taken cognizance of cases excluded from the power of special tribunals, without any statutory authority, and have not considered charities to be excluded from the protection of the law of equity, because they were not made subject to the power of the commissioners, under the 43 Elizabeth.

It remains no provision, which enlarges the jurisdiction of the chancellor as a court of equity, or as acting in place of the king by his prerogative or personal jurisdiction; in the appointment of commissioners, he acts as a special officer, selected to perform the duty imposed by the statutes; in sustaining appeals from the commissioners, he acts by the rules of equity and good conscience, and these are the only functions which he is to perform under the statute. Keble, 943–4. 2 Ruffhead, 768–9.

It is wholly silent as to a proceeding by original bill, between private parties, or by information of the attorney general, where the king is in any way concerned, or where the chancellor can act only by the sign manual of the king. It enumerates only twenty-one charitable uses, as classed by Lord Coke in 4 Institutes, 710, and prescribes only one rule to the commissioners in making their decrees: "So as the land and money may be duly and faithfully employed to and for such of the charitable uses and intents before rehearsed respectively, for which they were given, limited, assigned, or appointed, by the donors or founders thereof;" "Which decrees not being contrary to the orders, statutes, or decrees of the donors or founders, shall, by the authority of the the present parliament, stand firm and good, according to the tenor and purport thereof, and shall be executed accordingly, until the same shall be undone or altered by the lord chancellor," &c. 2 Coke's Institutes, 710.

This is the substance of the recital and remedial part of this statute; and if the law of charity could be traced to no other source, the system must have remained not only very defective, but would have been extremely

illiberal and contracted, if it had rested on the enacting or remedial provisions it contains, or its operation and effect had been confined to the enumerated cases.

By recurring to the statutes heretofore noticed, and the decisions of courts of law and equity, before this statute, it will be found, that they comprehend forty-six specifications of pious and charitable uses, which were recognized as within the protection of the law, in which were embraced all that were enumerated in the 43 Elizabeth.

The statutes of Henry VIII. and Edward VI., for the suppression of superstition, protect more cases of charity, and prescribe more liberal rules for their establishment and maintenance, than the 43 Elizabeth.—The rules they prescribe to the commissioners and the courts under which they were placed, are more definite and explicit, in favour of charities, even where their establishment would prejudice the rights of the king, than this statute directs in cases between individuals.\*

The same remark applies to the statutes of the 39 Elizabeth, and if a detailed comparison was made, exhibiting the system of charities by the general course of the law of England, as it stood before the 43 Elizabeth, and as it would appear from that statute taken alone, no jurist could hesitate in preferring the former as the most perfect and liberal. The contrast would be striking indeed, if we expunge from the latter all which it adopts from former statutes and the common law; or if we take from the rules and principles which have governed its construction, as they are stated in the books to have been founded on its provisions, those which appear to have been finally settled and established previously;—this statute, and the great system which has been supposed to have been built upon it, would lose its importance in the view of the profession.

That branch of the personal or prerogative jurisdiction of the chancellor, which is exercised on the formation of the attorney general, by appointing a charitable

22. The maintenance of poor in houses of correction. 29 Elizabeth.

23. For impotent and maimed soldiers. 29 Elizabeth 35 Elizabeth, ch. 1.

24. For hurt and maimed mariners. 35 Elizabeth, ch. 1. Mo. 889, pl. 1252.

25. The maintenance of houses of correction and abiding houses. 35 Elizabeth, ch. 7. 39 Elizabeth, ch. 5.

26. For stocks and stores for them, and the use of the poor. 39 Elizabeth, ch. 4. 1 Coke's Reports, 26. a.

27. To erect and found hospitals. 39 Elizabeth, ch. 5. Coke on Littleton, 342. a. 10 Coke's Reports, 25, &c. Hobart, 123. Tothill, 32. Mo. 865, pl. 1194.

28. Schools of learning colleges and hospitals, for the relief of the poor. 39 Elizabeth, ch. 6.

29. For the relief of orphans and fatherless children. 39 Elizabeth, ch. 6. Swinb. 66.

30. And such like good and lawful charities. 39 Elizabeth, ch. 6.

31. Repairing bridges and roads. 39 Elizabeth, ch. 6, making bridges and beacons. 6 Coke's Reports, 1, 2.

32. Maintenance of free schools and poor scholars. 39 Elizabeth, ch. 6.

33. Or such other good, lawful and charitable purposes and intents. 39 Elizabeth, ch. 6.

34. The true labour and exercise of husbandry. 7 Jac. 1, ch. 3, preamble. Keble's Statutes, 1040. 3 Ruffhead's Statutes, 74, recited as profitable to the commonwealth and pleasing to God.

35. The bringing up of apprentices of both sexes in trades and manual occupations. 7 Jac. ch. 3.

36. The making a stock for poor labourers in husbandry—poor apprentices, and to set them at work. 1 Coke's Reports, 26. a.

37. For chapels of ease, erected as members of parochial churches. Hobart, 123, 4.

38. For erecting cathedrals—of money for their support. Swinb. 66.

39. For the advancement of religion and learning, and the maintenance of the poor. 11 Coke's reports, 70, b.

40. For public benefit. 11 Coke's Reports, 73. b.

41. Works of piety and charity, or any other charitable use. 1 Coke's Reports, 26. a. 8 Coke's Reports, 130. b.

42. Poor men decayed by misfortune or the visitation of God. Mo. 129, pl. 277.

43. Persons imprisoned for conscience sake. B. Duke on U-ses, 131.

44. A bell for a church, pulpit cushion, and cloth, for a sessions house, or for the ornament of a church or vestments for service. Pop. 139. 6. Coke's Reports, 1, 2.

45. The marriage of poor maidens. 1 Coke's Reports, 26. a. 6 Coke's Reports, 1, b. 2. a.

\* The following summary list of uses declared by statute and adjudged cases to be validas pious and charitable, for which property could be held prior to the 43 Elizabeth, will fully sustain this position.

1. Gifts for the exercise and celebration of divine service, to find a chaplain, a taper to burn before an image, prayers for souls, the defence of the church, obits or service of a priest. Stat. 13 Edward I. 17 Edward II. 2 Henry V. 23 Henry VIII. 15 Richard II.

2. Free alms, liberal almsgiving and relief of the poor. 13 Edward I. 17 Edward II. 37 Henry VIII. 1 Edward VI., these were gifts in francalmoigne and good at common law. Litt. sect. 133. Coke on Littleton, 93. b. 94. a. &c. 6 Coke's Reports, 17. Carey, 39. B. Duke on Uses, 154. Pop. 6. 8 Coke's Reports, 130. Anderson, 43. Hobart, 124. Plowden, 523.—Perkins, section 7.

3. Hospitalities. 17 Edward II. 15 Richard II.

4. All other officers and services before time due, by whatever name. 17 Edward II.

5. The endowment of a vicar to inform the people, &c. 15 Richard II.

6. Lazars in Hospitals. 2 Henry V.

7. Men out of their wits. 2 Henry V.

8. Poor women with child, nourishing, relieving and refreshing other poor people. 2 Henry V. 1 Coke's Reports, 26. a.

9. The discharge of tolls and tallages to be levied to relieve the poor. 23 Henry VIII. 1 Coke's Reports, 26. a.

10. The cleansing of streets. 23 Henry VIII.

11. Good, virtuous and charitable deeds. 37 Henry VIII.

12. Erecting grammar schools and the maintenance of schoolmasters. 1 Edward VI. Dyer, 253. 1 Coke's Reports, 25, and ushers, Pop. 8, and 8 Coke's Reports, 130. b.

13. The further augmentation of the Universities. 1 Edward VI.

14. The support of preachers, priests and vicars. 1 Edward VI., and parsons. Plowden, 523. 1 Coke's Reports, 26.

15. The maintenance of pier walls and sea banks. 1 Edward VI.

16. The relief of poor men, being students or otherwise. 1 Edward VI.

17. Repairing bridges and walls. 2 and 3 Edward VI. 1 Coke's Reports, 26. a.

18. Setting poor people at work. 5 and 6 Edward VI. 1 Coke's Reports, 26. a.

19. The resuscitation of alms, prayer, and example of good life. 1 and 2 Philip and Mary.

20. The relief of prisoners. 14 Elizabeth B. Duke on Uses, 131.

21. The repair of churches. 13 Elizabeth. Coke's Elizabeth, 419. 1 Coke's Reports, 26. a.

donation to new objects, on the execution of those to which it was originally devoted, will be found to be derived from the fundamental law or charities, established by the statute of Templars, 17 Edward II.

(To be concluded.)

From the Harrisburg Chronicle.

# LAW CASE.

William Geddes,  
vs.  
Ab'm Bombauch et  
al. commiss'rs of  
Dauphin Co.

In the Comm in Pleas  
of Dauphin County No-  
vember term, 1833.

CASE STATED, for the opinion of the court, on the following facts, to wit:

William Geddes, the plaintiff, taught school in the township of Derry, county of Dauphin, for the term of eight months, commencing in November 1831, and ending in June 1832, at the rate of \$1 75 per quarter for tuition, and one-eighth of a cent per day for wood during the winter season; during which time sundry poor children regularly attended &c. according to the provisions of the act of 4th April, 1809, entitled "An act to provide for the education of the poor gratis," were sent to his school, and taught by him to the amount of 461 days. Plaintiff made out his bill according to the provisions of the act aforesaid, charging for tuition \$11 35, for books and stationary \$0 90, and for wood \$0 41, making in all \$12 93, which said bill was examined by John M. Harrison, John Beiner and George Garman, proprietors of said school, who certified that "they had carefully examined day book of teacher and found the above account correct, and that the charges made were what was agreed upon and paid by the rest of the employers." Which said bill was presented to the county commissioners, who refused to decree an order upon the Treasurer for the amount, stating that they never paid but two cents per day that that was an invariable price. It is agreed that for some years past the commissioners have only paid two cents per day, that a part of this same bill was presented to a former board of commissioners, who disallowed it, being higher than they had been accustomed to pay, and higher than they had paid the two previous teachers in the same school. That the commissioners were willing to have paid plaintiff the price which they had established and paid others.

If the court are of opinion, that the commissioners are not authorized to fix a particular price for the tuition of poor children, and that the above bill ought to be allowed, then judgment for the plaintiff for the sum of \$12 94 with costs.

46. For any charitable use. 1 Coke's Reports, 26. a. Shepherd's Abridgment, 1066, and such uses as concur in decency and good order with the intent of the founder. B. Duke on Uses, 155.

The 21 cases embraced in the statute 43 Elizabeth, are the following:

1. The relief of aged poor and impotent people.  
2. The maintenance of sick and maimed soldiers and mariners.

3. Schools of learning. 4. Free schools. 5. Scholars in Universities. 6. Houses of correction. 7. Repairs of bridges. 8. Of ports or havens. 9. Of castles. 10. Churches. 11. Of sea banks. 12. Of highways. 13. For education and preferment of orphans. 14. For marriage of poor maidens. 15. For supportation, aid and help of young tradesmen. 16. Of handicraft men. 17. Of persons decayed. 18. For redemption or relief of prisoners or captives. 19. For cases and aid of any poor inhabitants concerning payment of fifteens. 20. Fitting out soldiers. 21. And other taxes.

If the court are of opinion that the commissioners have authority to fix the price of tuition at two cents per day, and to refuse to pay more, then judgment for the plaintiff for \$9 94—costs to be paid according to the provisions of the act of assembly in such cases made and provided.

BEN'N. PARKE.

Attorney for Plaintiff.

GEO. W. HARRIS.

pro defendants.

The case was argued in September by *Parke*, for the plaintiff, and *Harris*, for the defendants. *Judge Blythe* delivered the following

# OPINION OF THE COURT.

Sept. 26, 1834. The Legislature intended that the children of parents unable to pay for their schooling should be put on a footing with children whose parents are able to pay—that is, should be sent to the most convenient teacher, at the same price that such most convenient teacher in good faith charged for other children. When this is done, the commissioners shall approve, except where they employ teachers themselves. For these reasons judgment is rendered for plaintiff for \$12 93, according to case stated.

TRANSACCTIONS IN THE PHILADELPHIA STOCK EXCHANGE. From Moore's Price Current.										
From the 1st of April, to the 15th November, 1834, inclusive, (seven and a half months)—exhibiting the part value of the relative Bank Stocks—(together with the number of Bank Shares sold, and at what prices, on the close of each month during that period as taken from the books kept at the MEMORANDUM'S EXCHANGE.										
BANKS.	No of Shares.	Per Value April.	May.	June.	July.	August.	Sept.	Oct.	Nov.	
United States.....	4651	465,400	105 1/2	107 1/4	107 1/4	107 1/2	109 1/2	108 1/4	108	
Gen'l.....	8222	411,100	57	56	58	62 1/2	62 1/2	63 1/2	61 1/2	
Schuylerkill.....	2670	133,310	57	56 1/2	57	59 1/2	59 1/2	60 1/2	59 1/2	
Farmer's & Mechanics.....	623	31,150	66	64 1/2	63	68 1/2	68 1/2	67 1/2	66	
Pennsylvania.....	68	27,200	51 1/2	51 1/2	50 1/2	50 1/2	50 1/2	51 1/2	51 1/2	
Philadelphia.....	541	51,100	102 1/2	103 1/2	102 1/2	104	108	107 1/2	107	
Mechanics.....	1097	38,593	47 1/2	47 1/2	46 1/2	49	50 1/2	51 1/2	50 1/2	
Western.....	1346	67,300	54 1/2	53	53 1/2	55 1/2	57 1/2	57 1/2	56 1/2	
Commercial.....	832	41,600	63	60	61 1/2	63 1/2	63 1/2	64	63 1/2	
Penn Township.....	156	7,800	68 1/2	68 1/2	68 1/2	71	72	72	69	
Manufacturers & Mechanics.....	695	34,730	69	69	69	69 1/2	71	72	72	
Kennington.....	213	10,630	67	67 1/2	67 1/2	67 1/2	67 1/2	67 1/2	67 1/2	
Northern Liberties.....	146	3,670	50	48 1/2	48 1/2	47 1/2	50 1/2	51	50 1/2	
North America.....	55	22,000	44 1/2	43 1/2	43 1/2	43 1/2	43 1/2	43 1/2	43 1/2	
Wyomensing.....	403	10,075				33 1/2	38	39 1/2	39	

## MANUFACTURES IN PENNSYLVANIA.

*Documents relative to the Manufactures in Pennsylvania, collected and transmitted in the House of Representatives, in compliance with a resolution of January 19, 1832, by the Secretary of the Treasury.*

RETURNS FROM THE STATE OF PENNSYLVANIA.

Document 13 —No. 1.

PHILADELPHIA, May, 4th 1832.

Sir: The undersigned, appointed commissioners by the Secretary of the Treasury, to collect the information called for by two resolutions of the House of Representatives, of the 19th January last, in regard to the State of Pennsylvania, respectfully report:

That, on the 15th February last, they severally received the letters of the Secretary of the Treasury, a copy of which is annexed; and that on the next day one of them, C. C. Biddle, in answer thereto, submitted to the department, for its approbation, a plan for obtaining the information called for, embracing the appointment of A. M. Prevost, as the assistant, and, at the same time, forwarded copies of circulars proposed to be issued.

Under the authority of the Secretary's appointment, the two commissioners, believing that the inquiries would be best promoted by uniting their efforts, determined in conjunction, to carry into effect the plan sanctioned by the department, and, accordingly, authorized Mr. Prevost as their agent, to frame the annexed new circulars. These were extensively circulated, and due diligence was used to procure as much pertinent information as was practicable by personal inquiries of all the principal manufactures in this neighborhood.

After pursuing these inquiries for several days longer in Philadelphia, and its immediate vicinity, the commissioners deemed it absolutely necessary that Mr. Prevost should proceed to the seat of the State Government, and also visit the principal manufacturing counties of the eastern district, so that, by personal examination, every possible effort might be made to fill the requisitions of the department.

On the 18th April, the Secretary's letter, terminating the functions of Mr. Prevost, the only agent they had employed, was received; and it became necessary in conformity with the instructions of the department, to digest and report the result of their united labors.

The nature and extent of the difficulties the commissioners have met in obtaining the information called for by the resolutions of the House of Representatives will appear by Mr. Prevost's report. Their exertions being suspended, they have to regret, as well as their assistant, the very imperfect character of the information herewith submitted to the department; but, should it be deemed expedient to pursue these inquiries further, in order to obtain complete returns of all the manufacturing establishments, the present labors of the commissioners will much facilitate the means of obtaining these results. The mass of facts now presented they owe to the judicious, active, and unremitting exertions of their able assistant.

We have the honor to be, very respectfully, sir, your obedient servant.

MATTHEW CAREY,  
CLEMENT F. C. BIDDLE.

To the Hon. LOUIS McLANE,  
Secretary of the Treasury, Washington.

## CIRCULAR.

PHILADELPHIA, March 22d, 1832.

Sir: Having been directed by the Secretary of the Treasury, under the authority of two resolutions of the House of Representatives, passed the 19th January, to collect and report such facts as may be necessary to a full knowledge of the manufactures of the United States as far as respects the State of Pennsylvania, we take

the liberty of asking your attention to the accompanying queries prepared by the Treasury Department, and of soliciting such answers to them as it is hoped you may be able to furnish, which you will please to designate by numbers corresponding with the queries. It is, however, not intended to exclude any other facts you may think pertinent, or which may be considered essential to a just view of your interests.

As great delay has taken place from unforeseen circumstances, and as the information called for by the House of Representatives is desired as a basis of legislation with a view to the adjustment of the tariff during the present session, we shall be excused for urging upon you an immediate reply, to enable us to make the report to the department within the time limited.

We are, sir, very respectfully, your obedient servants,

MATTHEW CAREY,  
CLEMENT F. C. BIDDLE.

## LIST OF QUERIES.

1. State and county in which the manufactory is situated?
2. Kind or description of manufactory; and whether water, steam, or other power?
3. When established; and whether a joint stock concern?
4. Capital invested in ground and buildings, and water power, and in machinery?
5. Average amount in materials, and in cash for the purchase of materials, and payment of wages?
6. Annual rate of profit on the capital invested since the establishment of the manufactory, distinguishing between the rate of profit upon that portion of the capital which is borrowed, after providing for the interest upon it; and the rate of the profit upon that portion which is not borrowed?
7. Cause of the increase, (or decrease, as the case may be,) of profit.
8. Rates of profit on capital otherwise employed in the same State and county?
9. Amount of articles annually manufactured since the establishment of the manufactory; description quality, and value of each kind?
10. Quantity and value of different kinds of raw materials used, distinguishing between foreign products and domestic products?
11. Cost in the United States of similar articles of manufactory imported from abroad, and from what countries?
12. Number of men, women, and children employed, and average wages of each class?
13. How many hours a day employed, and what portion of the year?
14. Rate of wages of similar classes otherwise employed in the same state and county, in other states, and in foreign countries?
15. Number of horses or other animals employed?
16. Whether the manufactures find a market at the manufactory? If not, how far they are sent to a market?
17. Whether foreign articles of the like kinds enter into competition with them at such place of sale, and to what extent?
18. Where are the manufactures consumed?
19. Whether any of the manufactures are exported to foreign countries; and if so, where?
20. Whether the manufacture is sold by the manufacturer for cash? and if on credit, at what credit? if bartered, for what?
21. Whether the cost of the manufactured article (to the manufacturer) has increased or decreased; and how much in each year, from the establishment of the manufactory; and whether the increase has been in the materials or the labor, and at what rate?
22. The prices at which the manufactures have

been sold by the manufacturer since the establishment?

23. What rate of duty is necessary to enable the manufacturer to enter into competition in the home market with similar articles imported?

24. Is any change necessary in levying or collecting the duty on such articles, to prevent fraud?

25. What has been the rate of your profits, annually, for the last three years? and if it be a joint stock company, what dividends have been received, and what portion of the income of the company has been converted into fixed capital, or retained as a fund for contingent or other objects, and, therefore, not divided out annually?

26. What portion of the cost of your manufacturers consists of the price of the raw material, what portion of the wages of labor, and what portion of the profits of capital?

27. What amount of the agricultural production of the country is consumed in your establishment, and what amount of other domestic productions?

28. What quantity or amount of manufactures, such as you make, are produced in the United States, and what amount in your own state?

29. If the duty upon the foreign manufacture of the kind of goods which you make were reduced to 12½ per cent, with a corresponding reduction on all the imports, would it cause you to abandon your business, or would you continue to manufacture at reduced prices?

30. If it would cause you to abandon your business, in what way would you employ your capital?

31. Is there any pursuit in which you could engage, from which you could derive greater profits even after a reduction of the import duties to 12½ per cent.

32. Are not the manufactures of salt and iron remote from the points of importation, out of foreign competition within a certain circle around them, and what is the extent of that circle?

33. Amount of capital, and what proportion the borrowed capital bears to that which is real?

34. What amount of reduction in the duties would enable the actual or real capital employed to yield an interest of six per cent? and how gradual the reduction should be.

35. If minimums should be abolished, and the duty assessed upon the actual value of the imported article in the American port, what rate of ad valorem duty would be equivalent to the present with the minimum?

36. What would be the operation of this change upon the frauds at present supposed to be practised?

37. Proportion which the production by the American manufacturer bears to the consumption?

38. Extent of individual and household manufacture in the United States, and how much it has increased since the tariff of 1824?

39. Average profit of money or capital in the United States?

40. Average rate of wages?

#### *Document 13.—No. 2.*

*Report of Andrew M. Prevost to the Commissioners.*

PHILADELPHIA, April 20, 1832.

Mathew Carey and Clement C. Biddle, Esquires.

Gentlemen: Under your direction, on the 19th March last, I forwarded through the post-office one hundred and twenty-five circulars to the principal woolen, cotton, and iron manufacturers of the eastern district of this state, after having spent several days in distributing others personally to those within my reach, and in obtaining the names and addresses of those at a distance.

As no provision has been made by the United States to procure, through the marshals, at the time of taking the census, returns of the manufacturing establishments of the country, and as the State of Pennsylvania has

likewise hitherto neglected to avail itself of the services of the township assessors to attain the same object, there is no where an authentic record to be found to assist in the proposed inquiry; and it was necessary to employ considerable time and industry to obtain even that preliminary information. From the 19th to the end of the month, I delivered and directed upwards of two hundred more circulars, and inserted in the public papers a request that manufacturers should look for them in the post-office of the county towns nearest their location. My personal communications with them convince me that they have been very generally received, and that the knowledge of your call for information is extensively circulated.

In further obedience to your desires, I travelled through Chester, Lancaster, Dauphin, Lebanon, Berks, Schuylkill, Lehigh, Northampton, and Bucks counties, to further the objects of the Secretary's letter, and found every where that the subject had attracted the attention of the parties interested.

On my return to this city, I regret to observe the very small number of answers received, which are numbered, filed, and annexed to this, and beg leave to repeat to you what I have had the honor of stating in a former communication.

Two obstacles to the collection of information have, almost in every case, met me at the very threshold: the one an universal objection to several of the queries proposed by the department. With many individuals this has operated, no doubt, as a pretext for disregarding the whole of them. My personal attendance on manufacturers and on members of the Legislature, with the circulation of your judicious additional circular, has enabled me to do away those unfavorable impressions *to a certain extent*, but by no means *entirely*. In proof of my assertion, I need only refer you to the concluding paragraph of Mr. Ronaldson's letter, No. 4, and to expressions used in letter No. 3, by Mr. Crozier, the active manufacturer's committee member of Delaware county, and of Messrs. Riddle in No. 14. Those gentlemen state plainly their objections and their grounds.

The second difficulty arises from the circumstance of your inquiry having been anticipated by the manufacturing interest at the meeting of their Convention in New York, in 1831. Having very generally transmitted since then, to the indefatigable secretary of that Convention, the statements they wish to place in the possession of either himself or the public, they deem it generally useless to furnish the same matter over again, under a different form, to the Treasury Department, and through a different channel. This has been distinctly stated to me by the Chairman of the Committee on Manufactures of the House of Representatives, who assured me that the Secretary of the Treasury was, or would be, in possession of all the returns from his country, and that it would answer no purpose to forward them again. This abundantly accounts for the silence of the greater number.

Under those essential disadvantages, I am unable to produce before you any thing more than detached reports of several counties, such as a pretty accurate table of the numerous iron works of Berks, and of the manufacturing establishments of the north-eastern part of Philadelphia county, partial reports of all the iron works of Schuylkill, Dauphin, and Lancaster counties, and a condensed view of the information contained in the answers received. I should feel mortified at this scanty result of several weeks of assiduous attention, were I not conscious that the utmost industry may be exerted in vain.

It will be recollected that this has only been obtained by personal journeys, visits, and excursions to works and manufactories, without which it was found impracticable to get at facts with any degree of accuracy.—From my departure on that service, to the period of the discontinuance of the inquiry by order of the de-

partment, the time has been so short that more could not well have been done.

My short experience in this inquiry convinces me, that, if it be an object with Government to obtain statistical reports of the manufactures, with the best answers that can be procured to the many interesting but speculative queries in the list, this can only be done by personal applications to individuals. The persons employed should be enabled to spare the time necessary to elicit those answers. They will have to interrogate many a man who, however intelligent he may be in his particular branch of business, would consider it an herculean task to put down his ideas on paper. From the extent of country to be travelled over, and the number of works which have sprung up in every direction, I do not hesitate to say, that the best part of a year would be consumed by a single individual in this district alone and need not add, that, unless the information obtained

can be fully relied upon, it had better never be sought after. You will find annexed to this—

A. Abstract of the iron works of Berks county.  
B. Abstract of the manufactories in the north-eastern part of Philadelphia county.

C. Abstract of the manufactories in Delaware county.

D. Abstract of iron works in Schuylkill county.

E. Abstract of the iron works in Lancaster county.

F. Abstract of the iron works in York county.

G. A condensed statement of the manufacturers' answers.

H. File containing the originals of those answers, No. 1 to 16.

DD. Some of the original documents from which the information in abstract A is derived.

All which is respectfully submitted, by your obedient servant.

ANDREW M. PREVOST.

Document 13.—No. 3.

A.—Results of the information obtained by A. M. Prevost respecting the Iron Works situated in Berks County, Pennsylvania, April, 1832, exhibiting their products for three years.

FURNACES.		OWNERS.		Number of men employed.	Supposed number of persons dependent on the establishment at five per family.	Number of horses.	Quantity of pig metal in tons.	Quantity of castings in tons.	Quantity of bar iron in tons.	Quantity of blooms in tons.
Moslem	Furnace	N. V. R. Hunter		110	500	60	650			
Sally Ann	do	J. V. R. Hunter		150	700	51	1,300	250		
Reading	do	Geo. Egest, est.		228	1,000	198	3,500	100		
Kernsville	do	Joas Kern & Co.		12	60	12	100	100		
Hopewell	do	Buckley & Brooks		168	800	84	1,000	700		
Mary Ann	do	Reuben Trexler		153	700	81	1,350	330		
Joana	do	William Darling		168	800	80	2,200	500		
Oley	do	J. W. Snyder		153	700	75	1,050	350		
Wind-or	do	Jones, Keim & Co.		195	900	48	650	750		
Union	do	George Reagan		18	90	15	700			
Mount Penn	do	Seyfert & Schwartz		220	1,000	120	1,700	590		
Pine	Forge	J. Rutter		90	400	60	—	—	700	
Greentree	do	Keen & Burkhardt		19	100	12	—	—	150	
Birdsborough	do	Matth. Brooks, est.		54	400	52	—	—	150	
Gibraltar	do	Seyfert & Schwartz		1 to 8	700	60	—	—	—	1,900
North Kill	do	B. & J. Seyfert		56	150	23	—	—	300	
Sixpenay	do	George Zacharas		62	250	36	—	—	600	
Rockland	do	J. W. Schneider		53	250	36	—	—	450	
Oley	do	J. S. Spang		35	150	60	—	—	300	
Mt. Pleasant	3 do	—		93	453	45	—	—	700	
Speedwell	do	Daniel Yokum		99	400	55	—	—	200	300
Rockland	do	David Oyster		18	75	17	—	—	150	
Dowell	do	Jonathan Seidel		85	400	60	—	—	—	1,000
Charming	do	George Ege, est.		100	450	70	—	—	800	
Moslem	2 do	N. & J. Hunter		110	500	60	—	—	300	700
Spring	do	J. S. Bertlet		40	205	40	—	—	350	
Dale	do	D. Schall		30	140	20	—	—	250	
New District	do	W. Schall		30	145	50	—	—	240	
Union	do	Geo Reagan		60	250	40	—	—	600	
District	do	Reuben Trexler		60	300	61	—	—	480	
Forges		23		2,857	12,968	1,674	14,500	3,580	7,320	3,900
Furnaces		11								

No approximation at the price of wages could be readily obtained, as in iron works they differ essentially. A good founder may obtain one thousand dollars a year, with one or two boys; while the wagoner, who hauls the coal boxes, receives one hundred or one hundred and twenty dollars, and his board. Wood-choppers are paid thirty-five cents per cord.

(To be continued.)

## SOCIETY FOR THE RELIEF OF DISABLED FIREMEN.

At a meeting of Firemen, signers of the Preamble to the Society for the Relief of Disabled Firemen, held at the Military Hall, on Monday evening, Nov. 25th, M. L. Gordon was appointed Chairman, and Benj. Matthias, Secretary.

Mr. H. G. Rowley, from the committee appointed on the subject at a previous meeting, presented the annexed articles of a Constitution, which were taken up separately, amended and adopted.

It was then

Resolved, That a committee be appointed to procure printed copies of the Report made at a previous meeting of Firemen, on the subject of a Society for the Relief of Disabled Firemen, together with the Constitution just adopted, and such proceedings of the present and late meetings of Firemen, in relation to this matter, as may be considered necessary to a proper understanding of the objects and designs of the Association.

Resolved, That the committee who drafted the Report be the above committee, and that they furnish the President of each company with 30 copies of the printed Constitution, to be by him circulated among the members.

Resolved, That the committee be authorized to procure a book, with the Constitution engrossed, for the signatures of those who are desirous of becoming members.

On motion

Mr. H. G. Rowley was unanimously appointed Treasurer pro tem, with power to receive all subscriptions and contributions, until the regular election of officers, in January next.

Resolved, That when we adjourn, we adjourn to meet at this place, this night three weeks.

Adjourned.

M. L. GORDON, Chairman.

BENJ. MATTHIAS, Secretary.

### PREAMBLE.

The Firemen of Philadelphia, being rendered eminently liable to accident and impaired health, in consequence of the danger and exposure to which they are subject in the ordinary discharge of their duties, it is considered proper that an Association should be formed for the aid of those who, while suffering under these misfortunes, are unable to provide comfortably for themselves and families. By the undersigned, members of the Fire department of Philadelphia, it is therefore resolved to form an Association for mutual aid and assistance, under the annexed code of articles.

### ARTICLES OF ASSOCIATION.

Art. 1st—The association shall be known as the "Philadelphia Association for the Relief of Disabled Firemen."

Art. 2d—All members of the Fire Department of the City and County of Philadelphia, shall be eligible to membership, by paying into the hands of the Treasurer the sum of one dollar.

Art. 3d—The government of the association shall be vested in a Board of Trustees, consisting of twenty-one Firemen, to be chosen annually.

Art. 4th—The Board of Trustees shall be elected by the members of the Society, on the 2d Monday in January, in each and every year.

Art. 5th—The Board of Trustees shall meet within one week after their election, and choose out of their own body, a President, Treasurer, and Secretary, who shall, by virtue of their appointment, be the officers of the Society at large; they shall hold stated meetings at least once in every month; have the control of the funds of the Association, subject to the regulations herewith set down; have power to make By Laws, not inconsistent with the spirit of these articles,—and ge-

nerally to carry into effect, as far as they possibly can, the objects and designs of this Institution. They shall have power to fill any vacancies that may occur in their body.

Art. 6th—The President of the Board of Trustees shall appoint annually, three committees, of each of which he shall be an ex officio member.

First—A committee of ways and means, whose duty it shall be to devise means for increasing the funds of the association.

Second—A committee of investment, charged with the safe and profitable investment of the Funds.

Third—A committee on examinations, who shall visit every applicant for relief, within 24 hours after being notified by the President, inquire into his situation, and order an appropriation for his relief.

Art. 7th—Every member of this association who may receive an injury in the discharge of his duty as a Fireman, shall give notice to the President of the Board, within seven days thereafter, of which notice the President shall immediately inform the chairman of the Examining committee.

Art. 8th—Firemen members of this association whose health has been seriously injured by a course of active service in the department, and who are in indigent circumstances, and persons not members of the Fire Department, who have sustained injury from Fire apparatus, shall be entitled to relief, at the option of the Board of Trustees.

Art. 9th—The funds of the association shall be invested by the Board of Trustees, and the capital shall not be impaired, the interest only, being used for charitable purposes.

Art. 10th—The amount of aid and the character of relief extended to applicants by the Board of Trustees, shall be graduated by the Board according to the amount of their means, and the situation of the applicant. In case of the decease of a member of the association, or of a person injured by Fire apparatus, the Board may make provision for their families.

Art. 11th—It shall be the duty of the President to preside at the meetings of the Society and Board of Trustees, and to keep order therein; and to call meetings of the Board of Trustees, by an order to the Secretary thereof, whenever he may deem it necessary, or whenever it may be requested in writing by any two members of the said Board, or any ten members of the Association. In case of the absence of the President from the city, the power of calling special meetings shall be vested in the Secretary.

Art. 12th—It shall be the duty of the Secretary to keep fair and correct minutes of the proceedings of the Board of Trustees, and of the association, to notify of all meetings when so directed by the President, and generally to do and perform all things relating to the clerkship of the Association, and its government, and to assist in all the doings and deliberations of the Board of Trustees.

Art. 13th—The Treasurer shall give satisfactory bonds to the Trustees for the faithful discharge of his duty. He shall collect, or cause to be collected, and safely keep all the contributions to, and the assessments of the association. Invest all funds according to the advice and direction of the Board of Trustees; keep and render to the said Board, monthly, a true account of all monies by him received and disbursements made; pay out all monies directed by the Board, and to render annually to the Board, previously to the annual election, a correct statement of the financial concerns of the Association, which shall be read at the annual meeting.

Art. 14th—It shall be the duty of the Board of Trustees to manage and superintend all things pertaining to this Association; and to make grants, issue orders for relief by committee or in a body, in accordance with the terms of these articles; to control and direct the manner of investing the funds; and generally to do

and perform all things which the members of the Association might or could do, if this board did not exist. It shall also be their duty to publish a list of their own names, and of the officers elected for the year, immediately after said election.

Art. 15th.—There shall be paid by each member of the Association, to the Treasurer thereof, on the 2d Monday of January, in each and every year, the sum of *one dollar* towards the support of the funds; and in default thereof, for three months after the above mentioned time, his name shall be reported by the Treasurer to the Board of Trustees, and if, in their opinion, a satisfactory reason is not assigned, they may strike his name from the list of members. But every member may be exempt from said annual payment, and become a permanent member, so long as he is attached to the Fire Department, by paying to the Treasurer the sum of *ten dollars*, and obtaining his certificate thereof.

Art. 16th.—In no case shall either of the preceding articles be altered, amended, or repealed, unless by a vote of two-thirds of the members present at a general meeting of the Association, convened for that special purpose.

From the Harrisburg Chronicle.

#### RECEIPTS AND EXPENDITURES OF PENNSYLVANIA.

Summary statement of the Receipts and Expenditures of Pennsylvania, from November 1, 1833, to October 31, 1834, both days inclusive, extracted from the Report of the Auditor General.

##### RECEIPTS.

Lands and Land Office fees,	\$33,707 92
Auction commissions,	12 300 00
Auction duties,	65,416 71
Dividends on bank stock,	127,531 00
Dividends on bridge, navigation and turnpike stock,	24,978 67
Tax on bank dividends,	74,148 12
Tax on coal company dividends,	1,437 60
Tax on offices,	11,216 30
Tax on writs, &c.	24,203 34
Fees, Secretary of State's office,	665 70
Tavern licenses,	53,223 57
Duties on dealers in foreign merchandize,	65,632 17
State maps,	192 34
Collateral inheritance tax,	17,187 46
Pamphlet laws,	115 63
Militia and exempt fines,	1,160 70
Tin and clock pedlers' licenses,	2,122 76
Hawkers' and pedlers' licenses,	3,273 56
Increase of county rates and levies,	190,910 73
Tax on personal property,	27,508 32
Escheats,	989 61
Canal and rail road tolls,	309,789 15
Loans,	3,529,354 44
Premiums on loans,	155,273 39
Premiums on bank charters,	42,506 17
Refunded by the commissioners of the internal improvement fund,	100,000 00
Old debts and miscellaneous,	1,902 49
	4,876,748 05
Balance in the treasury on 1st November, 1833,	367,423 30
	5,244,171 35

##### EXPENDITURES.

Internal improvements,	3,679,095 39
Expenses of Government,	227,187 46
Militia expenses,	21,075 87
Pensions and gratuities,	25,613 78
Education,	40,590 43
House of Refuge,	5,000 00
Interest on Loans,	103,925 00
Pennsylvania claimants,	2,144 90

Internal improvement fund,	919,060 84
Penitentiary near Philadelphia,	84,622 91
Penitentiary near Pittsburg,	64,111 75
Conveying convicts,	1,686 57
Conveying fugitives,	773 03
Defence of the state,	40 00
Miscellaneous,	15,151 22

5,190,079 15

Balance in the Treasury 1st Nov. 1834, 54,092 20

\$5,244,171 35

CANAL TOLLS.—This item of revenue is steadily increasing. In 1830, the whole amount of toll received amounted to \$25,748 68. In 1831, to \$38,241 20—In 1832, to \$50,909 57—In 1833, to \$151,419 69—In 1834, it has increased to \$309,789 15. Having doubled in amount every year since 1831.

The following table will show, in detail, the amount taken at the several collection offices along the Canal and Rail Road:

Robert Scott, jr. Duncan's Island,	3,453 30
Wm. B. Foster, Alleghenytown,	2,096 35
Wm. Williams, Huntingdon,	5,310 54
Levi Reynolds, Lewistown,	10,171 82
John Matthews, Johnstown,	35,161 54
John Nevin, Middletown,	427 11
Geo. P. Nevin, Swatara Aqueduct,	707 94
Jno. W. Miles, Northumberland,	11,578 82
Abraham Hendel, Portsmouth,	46,974 66
Enoch Davis, Col. & Phil. R. R.	6,607 33
John Walker, Holidaysburg,	39,162 91
David Brenneman, Leechburg,	3,444 33
Thos. C. Reed, late, Harrisburg,	2,670 39
David Cummings, Harrisburg,	21,005 00
William T. Rogers, Bristol,	12,746 68
Caleb Dusenberry, Easton,	40,652 93
John L. Armstrong, Pitts'g. Aqueduct,	1,898 00
Chas. B. Knowles, New Hope,	3,355 96
Thomas Johnston, Blairsville,	5,979 11
Jacob Fritz, Juniata Aqueduct,	68 69
Samuel Headly, Berwick,	2,415 07
Samuel Foreman, Kiskiminetas,	197 50
E. N. Down, late, Northumberland,	251 00
Thomas Ains, Jack Narrows,	58 00
Andw. Boggs, late, Alleghenytown,	1,533 30
John S. Cash, Col. & Phil. R. R.	25,455 18
Henry Chritzman, Liverpool,	1,101 62
Wm. F. Swift, late, Bristol,	379 89
James Black, Newport,	1,388 63
John List, out-let locks Columbia,	21 91
Thos. L. Smith, Col. P. R. R.	10,295 67
Wm. McCreery, Alleghenytown,	10,436 31
Robert Robinson, Shavers Ford,	9 06
Whiteman Benner, C. & P. R. R.	1,882 15
William Kinneear, Franklin,	335 75
John English, Beaver,	554 91

309,789 15

The amount of tolls received at the treasury, since the close of the fiscal year, on the 31st of October, is about \$35,000, and will be increased to 50,000 and upwards, if the navigation is not closed before the meeting of the Legislature.

#### THE REGISTER.

PHILADELPHIA, NOV. 29, 1834.

In the present number, we have commenced the publication of certain documents in relation to the manufactures of this State—reported to Congress in 1832. Imperfect as the information confessedly is, owing to the short period allotted for obtaining it—it is the latest and perhaps the most complete that can be furnished on the subject.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 23. PHILADELPHIA, DECEMBER 6, 1834. NO. 361.

## RIGHTS OF UNINCORPORATED SOCIETIES.

*The Opinion of the Circuit Court of the United States, in and for the Eastern District of Pennsylvania, on the Will of SARAH ZANE, a member of the Society of Friends.—April term, 1833.*

(Concluded from page 547.)

The altering and disposing to good and pious uses, donations originally made for purposes of superstition, is a provision of the 1 Edward VI.

The appointment of general and vague charities to definite objects, results from the general direction of the statutes, prior to the 43 Elizabeth, to make such appointments, "so that the will of the giver shall in all things always be faithfully observed and religiously executed;" 17 Edward II.; and that the decrees "shall be most beneficial in favour of the charities specified;" 1 Edward VI.; so that the said charitable uses may be observed in the most liberal and ample sort. 39 Elizabeth.

General charities are embraced in the 37 Henry VIII. as "good, virtuous, and charitable deeds," and in 1 and 2 Philip and Mary. "The resuscitation of alms, prayer, and example of good life;" and in 39 Elizabeth, chapter 6, "other good, lawful, and charitable purposes and intents;"—they were also under the superintendence of the king as *patrons patriæ*. So that in all these cases the 43 Elizabeth has no direct or indirect effect, in giving any jurisdiction to the chancellor.—The appropriation of the increased profits, and revenues of land charged with a specific sum, to charities, to the same objects as those specified; and the rule which prevents their going to the heir, or any other use than the charity, is founded on the statute of templars, and the common law, as declared in 8 Coke's Reports, 131. 10 Coke's Reports, 30.

The words "given," "limited," "appointed," "assigned," were taken from the 1 Edward VI., ch. 14, and 37 Henry VIII. ch. 4. Vide 2 Chancery Cases, 18; these are the words on which the effect of the statutes has been mainly founded, and courts have extended them very far, P. C. 271, but their meaning is the same in all the statutes.

An assignment of the suppressed lands to charitable uses by commissioners, under the statute 1 Edward VI. ch. 14, section 13, had the same effect as an act of parliament, and the final decree of the court of augmentations of the revenue, the court of Wards, or exchequer, establishing a charity on the lands or revenues of the king, was conclusive on his rights, let them accrue from whatever source: it followed that such appointment, assignment or decree, by the authority of parliament, had all the effect of a charter, license, and *non obstante statuto*, or special incorporation.

Independent of any statutory jurisdiction, charities belonged to the king as *patrons patriæ*, and fell under the care of chancery by the same authority which they exercised over infants, idiots, lunatics, and wards of the king, before the election of the other courts to whom the powers of the chancellor were transferred. 2 Vernon, 342. 2 Peere Williams, 103. 18. 1 Blackstone, 90. 2, V. 328. Gilbert Eq. R. 172.

The erection of new courts, or the authority conferred on commissioners, to do what had before belonged

to the chancellor *virtute officii*, or by sign manual, was therefore only a devolution of his powers on the other tribunals; not the creating of a new power not before in existence, nor was the effect of their acts any greater by their special authority, than the decrees of the chancellor, in virtue of his inherent or prerogative jurisdiction.

—The law on this subject was so well settled, that in the 43 Elizabeth, the attorney general Coke, and the two chief justices, Popham and Sir Francis Moore, and Anderson, by command of Sir Thomas Egerton, keeper of the seal, reported the following resolutions, on divers points on the 39 Elizabeth, ch. 6. directing commissioners to redress frauds and breaches of trusts of lands and goods given to charitable uses.

If the commissioners decree a lease or feoffment to be void, it is void in interest and estate.

If the chancellor decrees it good, it is again good in interest, but they thought that the chancellor could make no decree, unless the decree of the commissioners was against equity.

That the commissioners could decree the payment of mesne profits received and misemployed, as well as make orders for the future profits.

That the word "given" in the proviso excepting hospitals and towns corporate, extends to gifts after the statute, as well as to gifts before.

That they could not by a decree, establish a corporation of churchwardens, or others, to take for a charitable use, but they could decree land to a *capable body politic, without danger of mortmain*, whether the land was held in capite or not, because the king is bound by the statute in that point.

That they could appoint lands to natural persons, and their heirs to hold in continuance for charitable uses.

That they had power to reform abuses in such corporations, as were out of towns corporate to add land to them, or make orders for them which should have the same effect, as *parliament by private acts of incorporation, for charitable uses, give as to all things in which the law does not prescribe any special cause or favour*. Moore's Reports, 559, 60, pl. 762. Moore's Abridgment, 158, pl. 727.

There can be no danger or error in taking the resolution of these common law lawyers, as the settled rules by which charities were administered up to this time; there certainly is none in following the statutes which are yet in force, and the adjudications of courts, which are recognized as law to this day, as the "general course of the law of England." In thus divesting the 43 Elizabeth of its borrowed words, uses, and provisions, it will be found, that there remains but one important office which it has performed by its exclusive operation in aid of donations to charities—that is to remove the disability imposed on corporations by the statute of wills.

In other respects, it can be considered only as an item in the legislature of England, which taken in connection with the decisions of the courts, framed the general course of the law on the subject of charities, which had become well defined and systematized; so much so, that we find much less litigation on charities, before the 43 Elizabeth, than immediately afterwards.

This was the consequence of the repeal of the 39 Elizabeth, ch. 6, and the very limited enumeration of uses in the 43d, which compelled the courts virtually to reenact it, by construction. In addition to the preceding view of the jurisdiction of chancery over charities, there is a general principle of the law of England peculiarly applicable to this subject.

It is provided by an old statute, that no man shall go from the king's court without remedy for his right. 13 Edward I. ch. 50. Kebble's Statutes, 52. 1 Raillhead's Statutes, 111, 12, and was declared as a rule of equity by the chancellor, in 4 Henry VII. fo. 5. Bohun's Chancery Cases, 3. 2 Coke's Institutes, 405. 8, 483. 12 Coke's Reports, 114, 6. Hobart, 63. 3 Blackstone's Commentary, 52. 2 Day's Comyn's Digest 340, 68. 70. 1 Chancery Reports, App. 20, 48.

The whole judicial power of the kingdom is vested in the different courts. 4 Coke's Institutes, 70, 1, and there can be no failure of justice by defects of courts, for when particular courts fail of justice, the general courts shall give remedy. 4 Coke's Institutes, 213. 1 Bacon's Abridgment, 554. 5. 12 Coke's Reports, 114.

They are supreme within their respective jurisdictions, and that of equity extends to all rights recognized by the law for which there is no legal remedy, the cognizance of which has not been transferred to some other court. 4 Coke's Institutes, 84.

The jurisdiction of chancery, according to equity and good conscience extends to all cases cognizable in equity, and the party objecting to its exercise must show that some other court of equity has cognizance of the case. 4 Coke's Institutes, 82. 1 Bacon's Abridgment, 560. Mitford's Pleading 183. Beame, 57. 91. 2 Vernon, 483. 1 Vernon, 59. 1 Vezey, 204. Dick, 129.

Its course is governed by usage, without any statutory restraint as to persons or the subject matter—except cases affecting the rights or prerogative of the crown, to which it is extended either by statutes or warrant from the king; but is not exercised in virtue of the equity powers of the court. 4 Coke's Institutes, 79. 82.—Bohun's Chancery Cases, 56. Hobart, 63. 2 Atkins, 553. Atkins 635, or the 43 Elizabeth. 2 Coke's Institute, 552.

In acting on cases between subjects, the jurisdiction exercised is that which is inherent in chancery as a court of equity, depending on its usage, and co-existent with its existence, by the same rules as are prescribed to the chancellor on an appeal from a decree of the commissioners under the 10th section of the 43 Elizabeth, which adopted its old principles.

It is the same jurisdiction which the constitution confers on the courts of the United States, by the words "cases in equity," and which the laws of this state of 1825 and 1828 confer on the state courts in cases of trust, "according to the powers and rules of a court of equity," which this court can exercise to the same extent as in England; subject only to the restriction of the 16th section of the judiciary act, where there is a remedy at law, *Baker vs. Biddle*, C. C. Mass. 3 Peters, 446, 7. 2 Peters, 525, 6.

It is therefore clear, that the extraordinary jurisdiction of chancery, was always applicable to charities in England; whenever there was a right to hold property for charitable use, there was a remedy in the appropriate court, according to their respective jurisdiction, to be administered by its ordinary rules and principles without the aid of any new statute.

It is also clear, that the personal or prerogative jurisdiction of the chancellor existed before the erection of the court of Wards. 2 Atkins, 553, and that the court of chancery exercised its jurisdiction at large on cases of charitable uses before the statutes and that there may be a bill by information in that court founded on its general jurisdiction. 2 Vezey, 327, 9.

There is no case reported or referred to, wherein chancery has refused to sustain a bill or information for the establishment of a charity for the want of juris-

diction; there could be no failure of equitable relief in a proper case, either between a subject and the king, or subject and subject, for before the erection of the courts of augmentations and wards the chancellor was invested with all the powers which were given to those courts which were most ample for all purposes of charities.

The case of the *Queen vs. Porter*, in 1 Coke's Reports, 22, has been considered as opposed to this position and the importance given to it by the Supreme Court of the United States, in 4 Wheaton, 33, 4, makes it necessary to bestow some attention upon it.

The case is too familiar to the profession to be stated, but one historical fact is stated by the Lord Chancellor in 3 Vezey, jr. 726, which fully accounts for the course of proceeding—the devisee "instead of performing the will made a long lease, and the mode taken to effectuate the charity, was this—they found the heir at law, and he having entered, conveyed to the queen, by which means she had it in her power to establish the charity."

The attorney general filed an information of intrusion in the Exchequer against Porter, who was in possession under the devisee, on which there was a judgment in favour of the queen, which is equivalent to a recovery of possession, as the defendant in such cases is subject to a fine which he can avoid only by making terms; it only remained for the queen to grant a charter to effectuate the charity, as she had the legal estate by deed from the heir, and possession of the land on which it was charged, and it was the most direct mode of doing it. In any other way the difficulty would have been great. There had been an adverse possession from the death of the testator in 32 Henry VIII. till the 34 Elizabeth, so that the heir could not have recovered possession by any other proceeding than a writ of right; if successful, he could establish the charity by his own deed, only in the grantees and their heirs, or in trustees for their use. To make a corporation, it would be necessary to apply to parliament as in the case of the Thetford School, or to the queen for letters patent, for at that time there was no power in commissioners by any statute to establish charities on any lands except those in the king's hands under the government of special courts.

If the heir had refused, the interference of chancery would have been necessary to give relief to the parties interested in the charity, if the difficulty of obtaining possession at law had been removed.

By the special verdict, it appears that the testator had edified "divers meases, mansions and places convenient for a free school," &c. 1 Coke's Reports, 19. b. and the devise of the wharf and house was for "the maintenance of the premises in manner and form, as the said N. G. have kept and maintained the same, and as the same is now kept and maintained without any diminution in any wise." There was then a vested interest, a trust created, and *cestui qui trust*, in existence, and the charity was fastened on the land into whosesoever hands it came. It was binding on the heir who entered for the condition broken—"he shall perform the use because he comes in upon confidence and the condition was compulsory to perform the use." Moore on Charitable Uses. Duke on Charitable Uses by Bridgman, 137, 8. 139, 61.

If the powerful reasoning of the judges in the case of *Ingliss vs. the Trustees*, &c., 3 Peters, 119. 140. 145. 154, is applied to Porter's case, it is apprehended that there could be little doubt that the devise would have been carried into effect in a court of law, if the *cestui qui use* of the charity had been in possession of the wharf and house; as the court of exchequer held the devise to be valid in law, and as the donor had an undoubted power over the estate, every principle and rule of equity, would have induced a court of equity to compel the heir at law to have carried his intention in-

to effect, by the exercise of its acknowledged jurisdiction over trusts.

The queen by her purchase acquired only the right of the heir, she held it subject to the trust, and as the condition which created the trust, appeared on the face of her title, the *cuius qui trust* could have had their remedy in the exchequer, by a bill or information in nature of a *monstrans de droit* as fully as in the case of a charity charged upon the Abbey Lands by the 33 Henry VIII. But no further proceeding was required after the adverse claim was removed, as the object was the establishment of the charity, no interference became necessary as the power of the queen was competent to do every act in order to carry the devise into complete effect; by the mode adopted all circuitry was avoided, and the object completely effected, as soon as the queen obtained possession by removing the intruder. Vide Plowden, 561. Hardres, 460. 2 Sar. 35. 7 Comyn's Digest by Day, 83.

The presumption of the want of any equitable remedy to establish and protect the charity, which has been drawn from the lapse of time from the death of the deviser till the filing of the information, is not warranted by any thing which appears in the report of the case, and it is not to be expected that the collateral circumstances attending it can now be traced with accuracy, the one referred to in 3 Vezey, 726, is satisfactory, and appears in the whole course of the argument by the counsel of the queen, to have been the only object of her interference.

But whatever ground there may have been for such presumption, arising from the particular circumstances of Porter's case, without referring to the general course of the courts of law and equity, or of the special courts or tribunals instituted by statutes prior to its decision; there certainly is the most abundant evidence, that there was in some court a competent power to effectuate all lawful charities according to the intent of the donor.

The statutes and adjudications referred to are conclusive to this point, and no presumption can be permitted to overthrow their authority, unless modern doubts shall be more respected than the ancient principles of the law which governed charities before the 43 Elizabeth, and which have continued to this day, the rules by which courts of equity have proceeded in their administration in cases not within the words or equity of that statute, as well as those expressly excluded from its operations by provisos and exceptions, as to which there can be no pretence that the statute either gave any new, or enlarged any old jurisdiction.

There is a large class of cases expressly excepted from the jurisdiction of the commissioners by the 43 Elizabeth, by declaring "that this act, or any thing in it, shall not extend to any city, town corporate," or land in them, given to the uses specified or to "colleges, hospitals or free schools," who have special governors or visitors to govern them, to "colleges in the Universities of Westminster, Eton, or Winchester." 7 Comyn's Digest by Day, 616. N.119.

The 39 Elizabeth, embraced all "colleges, hospitals, schools of learning, and other places founded or ordained for charitable purposes," but it was repealed by the 43 Elizabeth, chapter 9. 4 Coke's Institutes, 167. 7 Comyn's Digest by Day, 614.

Yet, notwithstanding the repeal of this law, and the proviso in the 43 Elizabeth, chapter 4, chancery has since, as they had done before, exercised a jurisdiction over them, which continues to this day, without any statutory authority, resting on its ancient basis. 2 Fomb. 208.

Though the 2 Henry V., placed hospitals under the supervision of the ordinary, yet where the "king or any of his progenitors were founders," the ordinary was not allowed to visit them; "but the chancellor of England is appointed by law to be their visitor." Coke on Littleton, 96. a. The king may have a prohibition to

the ordinary that "he shall not visit them, because the chancellor ought to do it and no other," "so shall a private founder, if the ordinary will visit or cite any of the poor to appear before him or remove them." Fitzherbert, Natura Brevium, 42. 93. Reg. Br. 40. 1 L. Pr. Reg. 379.

The remedy must, of course, be in the temporal courts; if a resort is had to those of equity powers, it must be by ordinary process of a bill at the suit of a subject against subject, or by information in case the king is party, according to its ancient usages, and rules, that whenever property is holden by one in trust and confidence, chancery has jurisdiction to correct fraud, accident and breaches of trust.

This power is exercised over the governors and visitors of colleges, hospitals, and corporations, whenever they are trustees. 3 Atkyns, 108. 164. 2 Peere Williams, 325.

Though the jurisdiction of the ordinary is expressly saved by the statute, chancery exercises the same powers over executors and administrators who hold money for charitable uses, as other trustees. It is the existence of a trust which is executory, that gives jurisdiction to chancery, and not the existence of a charity recognized by a statute; a statute has a different office to perform, to remove disabilities, or incapacities imposed by statute, or common law, so as to bring charities back to their original capacity, and place them within the cognizance of the appropriate courts, as it they had never been affected by any change introduced by statutes, which had embarrassed donations for uses of charity, piety and education. When that office is performed, and the case becomes disencumbered of statutory restraints, the powers of the courts are brought to act on them, as the highly favoured objects of the law; chancery especially will protect them to the extent of its judicial power as a court of equity, and by the personal jurisdiction of the chancellor, which he exercises in right of the crown by prerogative, under the sign manual of the king, as *parens patriæ*, what the king in equity and conscience ought to do. This is done in cases of charities for purposes so undefined, as not to come within the statute, or general charities, with which the commissioners have nothing to do, but must be determined by the king in chancery, on an information by the attorney general.

In a leading case on this subject, the decree of the commissioners was reversed as to a general charity, but affirmed where the objects were defined with reasonable certainty. 2 Lev. 167, so as to come within the statute. In these three classes of cases not embraced in the statutes, therefore, viz: 1, where the objects are wholly vague; 2, cases excepted; 3, cases within the jurisdiction of the ordinary, as also cases provided for by the 17 Edward II. 1 Edward VI.; the jurisdiction of chancery is wholly independent of its provisions, and is exercised as if it had never passed; as is strikingly exemplified in the cases of hospitals placed under the power of the commissioners by the 39, but excluded by the 43 Elizabeth; there was no ground on which chancery could take their supervision as to the execution of trusts, but by its *extraordinary* or *personal* jurisdiction existing before the 43 Elizabeth. It has been supposed that the latter must have been derived from the statutes, from the circumstance of their being no reported cases of its exercise antecedently; if there is any weight in this supposition, it applies with the same force for sixty years afterwards, for there is no reported proceeding in chancery on charities where the king is a party till after the restoration of Charles II.; but this circumstance is satisfactorily accounted for, by referring to former statutes.

All the lands of the abbeys, monasteries, &c. which were suppressed by the statutes of Henry VIII. and Edward VI. were placed in the hands of the commissioners appointed by the king, under the order and governance of the court of augmentation of the king's

revenue, which had also the exclusive cognizance of all claims for charities, charged on, or accruing from the suppressed lands, by which the king could be in any way prejudiced or affected. Keble's Statutes, 608. 4 Coke's Institutes, 121. Gilb. Ex. 159. 2 Ruffhead's Statutes, 226.

On the abolition of this court, its powers devolved on the Exchequer, without any act of parliament. Dyer, 216 a. pl. 55. Skinner, 612. 1 Bacon's Abridgment, 597, which had the control of the king's lands and revenues, 4 Coke's Institutes, 194, before the erection of the court of augmentation in 27 Henry VIII. ch. 27. 4 Coke's Institutes, 121, 2.

The king's demesne and purchased lands, with those which accrued by forfeiture and escheat, together with all matters affecting them, were under the supervision of the Exchequer, which was a court of original jurisdiction, both in law and equity, by ancient statutes and usages, in all cases affecting these lands, or any claims upon them, or his revenues or profits issuing therefrom, in which the proceedings were by bill, information, *monstrans de droit*, petition of right, or the traverse of inquisitions, as the case may be. 3 Blackstone's Commentaries, 44. 2 Coke's Institutes, 23. 553. 4 Coke's Institutes, 108. 1 Bacon's Abridgment, 597. Hobart, 63. Hardres, 50. 2 Lev. 34. Dyer, 303. 3 Comyn's Digest by Day, 312.

The court of wards and liverys was erected by the 32 Henry VIII. ch. 46; it was a court of record and equity, in which the proceeding on the part of the king, was by information in the name of the attorney general, and on the part of a subject, by the usual mode of proceeding appropriate to the jurisdiction of the court, which extended to all wardships of the king by statute, tenure, or prerogative, in any lands or their issues and profits, as well as the estates of idiots and natural fools, and charities charged on the lands of his wards or tenants, which were in his wardship. 4 Coke's Institutes, 138. 202. Bohun C. C. 468. Hobart, 136.

The jurisdiction of the Exchequer was taken away from all cases cognizable by the court of wards and liverys. 4 Coke's Institutes, 189, and the statute 33 Henry VIII. ch. 39, declared the jurisdiction of all these courts to be exclusive over the subject matter within their respective cognizance. Keble's Statutes, 555. 2 Ruffhead's Statutes, 524.

The courts of augmentation and surveyors of the king's revenues—of exchequer and wards and liverys, had all the powers of a court of equity, in the exercise of which they proceeded by information, petition, traverse of inquisition, or English bill, and decreed for or against the king, according to the equity and conscience of the case as between subject and subject. 7 Coke's Reports, 19 b. Hardres, 27. 176. 230. 502. 4 Coke's Institutes, 19. Hobart, 136.

A reference to matters placed under the supervision of these courts, will show conclusively, that during their existence the chancellor could in no capacity act upon charities in any case to which the king was a party in interest, or where he came into court by the attorney general; if a charity was charged upon his lands, or those he held in ward, its order and governance belonged to some of these courts exclusively, and as *patres patriæ*, all lands so given to charities as to require his interposition by sign manual, came directly within his wardship—as in the case of infants, idiots, and lunatics. 2 Peere Williams, 103. 18.

Hence all jurisdiction over charities which were too vague and general to vest according to the ordinary rules of equity—all charities charged upon lands which would have escheated to the king or mesne lords but for the provisions of the statute of templars—all charities charged on the suppressed lands for superstitious uses which would have been seized by the king under the statutes of chauntries but for the direction of the statute 1 Edward VI.—and all charities charged on lands be-

longing to the king's wards, was devolved on the court of wards and liverys.

The powers of this court were derived from the 32 and 33 Henry VIII. and not from the 43 Elizabeth, which makes no mention of it. Yet we find from Griffith Flood's case, Hobart, 136, the authority of which is admitted, that that court decreed the establishment of a charity out of lands in wardship of the king, Floyd being his tenant, the decree was made by the ordinary power of the court, and in a case not only not within the 43 Elizabeth, but expressly exempted by it as one of the colleges of Oxford; the only effect of this statute was to remove the disability on corporations imposed by the statute of wills.

While the power of this court continued, that of chancery over the subject was necessarily suspended, as the king could not proceed in it by his sign manual appointing charities or the chancellor as his substitute; but as these charities were originally cognizable by the chancellor and his jurisdiction ceased by being transferred to another court, and not for any want of a competent power to effectuate all its objects, it would revert to it on its abolition, as was the case of the exchequer on the abolition of the court of augmentation. The court of wards was abolished with teatures in chivalry, first by Cromwell's parliament and afterwards by the 12 Car. 2 Keble's Statutes, 1147. 3 Ruffhead, 192; but the statute contained no provision for devolving its powers on other courts. That portion of its jurisdiction which grew out of feudal tenures was of course extinct, that which was founded on the prerogative of the king in the superstitution of charities, the care of lunatics, infants and idiots having been before the erection of the court of wards within the cognizance of the chancellor returned to him as an original jurisdiction which had been merely suspended. Fomb. 207. 2 Vern. 342. 3 Blackstone's Commentary, 427, 8. 2 Atkyns, 553. 3 Atkyns, 635. Mitford's Pleading, 29.

When the chancellor resumed this branch of his jurisdiction the proceedings were conducted as they had originally been, and as followed by the courts of wards, according to the usual course of equity in all courts, by modes of proceeding appropriate to the case, and according to the principles which had been settled by long and uniform usage in the exercise of its powers, by an authority neither conferred or enlarged by the 43 Elizabeth, or assumed from the necessity of the case on the subject of charities, more than any others to which their unquestioned jurisdiction extended.

The personal or prerogative jurisdiction of the chancellor has been and continues to be the subject of great diversity of opinion in England and this country; but the radical difference between the two governments, precludes the necessity of examining the question in this case.

Here the executive of the state, or union, has no prerogative powers or authority; his sign manual can confer none on a court of chancery; the chancellor is not the keeper of his conscience, or the attorney-general his representative in courts of law or equity; the rights and prerogative of the crown devolved on the several states by their declaration of independence, and the assumption of the powers of self-government. The general supervision of infants, idiots, lunatics, and charities, which thus devolved on them, can be exercised only by the authority of the legislature. A state cannot be made a party to a suit, without its consent expressed by a law or resolution, and no judicial proceeding or process by or against the attorney-general, unless by the authority of the state, can prejudice its rights. He can have no control over the fund which may belong to the state by escheat, on the extinction of all the objects for which it was created, and a failure of the heirs of the donor, or which comes to the prerogative wardship of the state over persons under legal disabilities; neither can be disposed of without an act of the legislature, who are the keepers of their own conscience,

as fully in relation to their prerogative rights over the property of others, as the original public domain of the state.

It suffices for the purposes of this case, to have ascertained that the original inherent powers of chancery proceeding as a court of equity, according to equity and good conscience, can be exercised by this court to the full extent of the emergency of this case, independently of the 43 Elizabeth, either by its enactments, or any new rules or principles of the law of equity supposed to have been developed in its exposition. Having given our views of the equity jurisdiction of the federal courts, in the case of *Baker vs. Biddle*, we deem it unnecessary to review them, as we are fully satisfied of the correctness of the opinion there delivered. Its application to this case will be found to cover all the questions of jurisdiction which can arise.

Having disposed of the objections to the capacity of the meetings of Friends in this and other states, to take by deed or will for charitable purposes; the next subject of inquiry, is as to the particular uses specified in the will—in the contested items which are,

No. 9. The eight acre lot is devised to the yearly meeting as a fund, the income of which is to be paid as an annual subscription into their stock—the application of which has been to the printing and dissemination of books and writings, that have been approved of by the society. Rep. of Master, Rec. 27.

10. The bequest of the one thousand dollars to the five monthly meetings of women friends, is for the relief of the poor members thereof. These meetings have a common stock and treasurer, and it is applied to the support of the poor, and teaching poor girls trades. Rec. 28.

11. This is a bequest of £30, and interest from the year 1759 for the use of certain Indians. The sum appears to have been received by the father of the testatrix, from one Captain Newcastle, an Indian, for the use of, his cousin, but a small part of it only was paid—the will directs this sum to be put into faithful hands, and was devised to the treasurer of the yearly meeting, for the relief and benefit of said Indians; for whose use it had been received by her father, and was evidently intended as the payment of a debt which she assumed by her will.

12. This was a legacy to the treasurer of the yearly meeting in Philadelphia, appointed to relieve the Indians, to the benefit of said Indians. The objects of the meeting are the civilization and improvement of the Indians of the Seneca and Tuscarora tribes in New York, to supply them with articles of husbandry, oxen, irons for mills, Rec. 28. 46.

17. Is a like bequest to the treasurer of the Baltimore Yearly Meeting, for the relief, benefit, and civilization of the Indians under their care, who live in the state of Ohio. No money appears to have been expended for this object for some years past, but the committee are ready to carry them into effect, if they can be found.—Rec. 45.

18. This is to Friends composing the Baltimore Yearly Meeting, towards their "stock," if they have one, if not, to one when it is their pleasure to establish it. It appears that this meeting had a stock at the death of testatrix, which was applied to the printing of books, of a religious character, or on business of the society, the expenses of members attending the legislature, and the keeping of Friends' horses during the meeting. Rec. 35.

19. This is a legacy to the Yearly Meeting at Mount Pleasant, in Ohio, for their stock, as in the preceding clause; there is no doubt they have a stock for the same purposes as other yearly meetings. Rec. 42.

20 and 21. Are legacies to Quaker meetings in Virginia for the relief of the poor thereof—towards the enlarging their meeting house, and the erection of a stone wall to enclose the lot on which it is built—both

meetings have a stock and treasurer. Rec. 28, 29., and all yearly meetings have a stock. Rec. 22.

22. Is a legacy to the citizens of Winchester in Virginia, (which is an incorporated town, Rec. 29.) for a fire engine and hose.

It would be a waste of time to examine into the validity of these uses; as objects of charity, benevolence, or liberality, by the common or statute laws of England or Pennsylvania, they are good and valid by both. 4 Wheaton, 45. 17 Sergeant and Rawle, 93; even the statute 9 George II. does not apply to bequests of money or personality, and the testator has specified purposes, charitable in their nature, 2 Roper on Legacies, 105, 6. 9 Vezey, 406.

There appears no adjudication as to a bequest for a fire engine or hose, but there needs no argument to prove it as such an object of public utility, as a sessions house. Pap. 139, a town house, 7 Johnson's Chancery, 294, or of charity, as cleansing streets, 23 Henry VIII. ch. 10. the repairing bridges, &c. 1 Edward VI. 43 Elizabeth; or in case of taxes and assessments for the preservation of the property of the citizens. We should administer the law of charity in this state, with little regard to its principles, in excluding from its protection so laudable an object as this.

As to the bequests for the benefit of the Indians, there can be no doubt of their being proper objects of charitable donations, as coming within what Swinburne defines, "poor miserable persons," calling for the aid of the charitable and benevolent. Swinburne, 66.

They have been so recognized by the legislature of the state in the laws of 1788, incorporating a society for their relief and improvement, as a *pious and charitable purpose*, Laws of 1788, p. 40; in this particular, both judges fully concur; though there is a difference of opinion on some matters connected with this bequest, which were much dwelt on in the argument on both sides, there is none as to their being proper objects of charity, and that the uses and purposes to which the donations of the Quaker meetings are applied, are not only lawful, but in the highest degree deserving encouragement and protection.

We have thus come to the conclusion, that the devise of the eight acre lot, and all the bequests in the will of Sarah Zane, which have been contested, are for pious and charitable uses and purposes, sanctioned by law.

The next inquiry is, are they so limited or appointed as to take effect for the objects intended.

It must be observed, that except the 22d, the devises are all in trust for the objects of the charities; the only interest which any of the Quaker societies have in the bequests, is in aid of their contributions for their stock, which appears to be made up by assessments on the different subordinate meetings, but they take in no other way for any individual or collective use or benefit.

The organization of these meetings is very regular, though none of them are incorporated. Their gradation is,—preparative, monthly, quarterly, and yearly meetings—the latter having the control of all the subordinate ones, but all composed of the same members, and each meeting has its stock and treasurer, its application being directed by the respective meeting, to agreed, approved, and definite objects.

The testatrix was a member of the Philadelphia yearly meeting, and appears to have been connected, in a friendly manner, with the meetings in Baltimore, Frederick County, in Virginia, where she died, and with the meeting of Mount Pleasant, a branch from the meeting of Maryland. We must therefore presume her to be familiar with the organization and discipline of all the meetings, in all their details, as is evident from the provisions of the will. When she devotes part of her property to the stock of a particular meeting, it is most certainly her intention that it shall be applied according to its discipline and usage, as well known

and understood by herself. It follows that a contribution to such stock, is of the same legal effect as if the objects of its application had been specified in the will, as in the case of a devise to a hospital, or any known institution, it is for the uses and purposes intended by the founder; so a devise by way of contribution to a fund devoted to specific objects, by a society who make it up is in law a devise to such purposes and such only, it can be directed to no other by the trustees, or a court, though the object may not be clearly defined. 1 Vernon's Reports, 43, 55, 1 Equity Cases Abridged, 99. 1 Atk. 356. 3 Merivale's Reports, 400.

It will be ascertained by usage, by the situation and circumstances of the testator, to discover what he meant, when the will gave no explanation, 2 Equity Cases Abridged, 366, &c. 3 Peere Williams, 145. As if he was a refugee, and devises generally to the poor, it shall be intended poor refugees of the same nation as himself, Amb. 422. Duke on Charitable Uses, by Bridgman, 494, 2 Roper on legacies, 147. S. P. Swinb. 516, 480, or "to the charity school," and there were two in the place, evidence was received to show that the testator was fond of the children in one of the schools, and declared he would leave them something at his death. 1 Peere Williams, 674-5. S. P. 2 Dallas' Reports, 70, 2. 2 Peere Williams, 141.

That a devise to the poor of any particular parish or church is good, has been often decided, 2 Roper on Legacies, 147-8, Tot. 30, in this case they are more definite, being to the poor of particular local meetings, which, by reference, makes the designation complete, when we advert to the master's report, finding that at the death of the testatrix, and before there were meetings of the kind referred to, at each place designated by her in the will. Finch, 184, 245. 2 Lev. 167-8. 1 Peere Williams, 425.

The devises for the benefit of the Indians, are likewise made specific by the evidence reported by the master, specifying the tribes of Indians, and the particular relief afforded by the committee during thirty years, by the expenditure of large sums of money, from time to time, under the direction of the meeting.

The intention to apply the bequests in the same manner, is too apparent for any court to entertain a doubt; if any could exist, or should hereafter arise, before a final decree, it is within our unquestioned powers to direct farther evidence to ascertain and carry it into execution, if no other objections exist than the want of certainty in the will itself.

In 1 Wheaton, 1, the devise was to "The Baptist association, that for ordinary meets at Philadelphia annually," which "I allow to be a perpetual fund for the education of youths of the Baptist denomination, who shall appear promising for the ministry, always giving a preference to the descendants of my father's family." The court declared the association to be described with sufficient accuracy, page 26, and that such a legacy would be sustained in England, page 29, so that there was no doubt of the validity of the devise, had the trustees been capable of taking for the objects intended.

In *Witman vs. Lee*, the devise was "to St. Michael and Zion Churches, to be laid out in bread for the poor of the Lutheran congregation, of which the testator was a member, and towards the education of young students of that congregation, under the direction of the vestrymen of the first named churches," and held good. 17 Sergeant & Rawle, 90, 93.

So of land appropriated by deed for public uses for the benefit of the inhabitants of a town, as a majority may order and direct, 6 Sergeant & Rawle, 211. So of a lot marked in the plan of a town, "for the Lutheran Church," for religious purposes, 2 Peters, 578. This was held good without further description of either the donees or uses, and to take effect when the church should be erected.

The court took into consideration the use to which

the lot had been appropriated from the time of the donation, which was for a meeting house and burying ground, and though the house had fallen down from decay and no new one had been erected, they decreed it to be enjoyed according to the former use.

A legacy to the town of New Rochelle, to erect a town house to transact public business in, has been held a sufficient description of the charity. 7 Johnson's C. 294. S. P. 1 Chancery Cases, 134.

Courts of Chancery act under an obligation to effectuate charitable donations by all the means in their power. 2 Freeman, 261. 330. 3 Merivale's Reports, 391, more liberally than in private cases without regarding the form or prayer of the bill. 1 Atkyns, 356, 1 Bro. Ch. Cas. 12. 2 Vezey, sr. 426. 1 Vezey, sr. 418. 2 Equity Cases Abr. 198. 11 Vezey, 365. 1 Vezey, sr. 468. 75.

It is enough that the testator expresses his general intention to establish a charity by making a donation to any object deemed charitable in law or by using the word charity. 9 Vezey, 399. 10 Vezey, 535. 17 Sergeant & Rawle, 93. 4 Wheaton, 45, wherever a trust is created for charitable purposes the mode by which it is to be effected or the specific objects of its application are not material to its validity: 2 Roper on Legacies, 140, and cases cited, 3 Peters, 119. 1 Atkyns, 469. 3 Bro. Ch. Cas. 528. 7 Vezey, 69. 86.

They are put on the footing of dedications of property to public benefit requiring no particular grantee or trustee capable of taking, though the object is not in *esse* at the time of the devise. 9 Cranch, 331, 2. 2 Peters, 582, 3. 6 Peters, 457, the land remains charged with the charity in the hands of the heir till the object comes into existence. 2 Vent. 319. 3 Peters, 114, 19. Duke on Charitable Uses by Bridgman, 554; so of money in the hands of a trustee, the profits accumulate for the benefit of the fund. 2 Atkyns, 238.

Chancery will establish the charity on the application of any person who has any interest in the fund in his own right, or as an inhabitant or a parish officer. 1 Chancery Cases, 134, a member of a society having a common benefit from the donation, or a committee of a voluntary association without charter, though they could sustain no action at law. 2 Peters, 584, 5, "according to what may be collected to be the true meaning and intent of the donor, notwithstanding any failure or defect in the bequests, gifts, or grants," as is correctly expressed in the rejected law of 1712.

The courts of this country have gone *pari passu* with those of England in aiding defective descriptions or designations of the places, objects, or purposes, of charity, wherever they could by the terms of the instrument connected with extrinsic circumstances, give locality and application to the fund according to the intent of the donor as near as may be. 3 Peters, 117.

Words will be construed in their most liberal and expanded meaning in order to make out the substance of a charity capable of being aided on equitable principles; or the existence of a trust in the heir at law, devisee, or executor, in the execution of which any individual or society has an interest which can be enjoyed by them, or held for their use consistently with the terms of the donation by an equitable right, chancery will draw to it the legal interest, and give it full effect by a plan to be drawn up under the direction of the court by a master or the trustee.

An inscription on a tombstone has been held sufficient. Duke on Charitable Uses by Bridgman, 349. 66. Or any direction by any writing, which can be deemed to be a limitation, disposition, assignment, or an appointment, or gift of property to a charitable use—it will be enforced against parties and privies, except purchasers for valuable consideration of money or land, without notice of the trust—not regarding the form of the instrument. Moore's Reports, 888. Com. 250. Precedents, Ch. 471. Sugden on Powers, 222, 3. A direction by a nuncupative will, was held to be an appoint-

ment or limitation before the statute of wills. Dyer, 72. pl. 2. Swinburne, 56. 68. Tothill, 31.

Chancery acts whenever there is a trust. 3 Atkyns, 198. 2 Peere Williams, 326, which never fails for want of a trustee. 1 Pennsylvania Reports, 51, 2. though he dies before the testator. 2 Equity Cases Abridged, 193. 1 Bro. Ch. Cas. 15 Amb. 571. 3 Bro. Ch. Cas. 528, refuses to act or abuses his trust. 2 Chancery Cases, 131. 7 Comyn's Digest by Day, 772; chancery will remove him and appoint another, 2 Ch. Reports, 78, 9. 2 Equity Cases Abridged, 194, or compel him to assign it. Finch, 269.

These are the principles of equity which the Supreme Court in 17 Sergeant and Rawle 91, 2, declare to be the common law of the state which have been uniformly applied as far as the powers of the courts could be extended to the exercise of chancery jurisdiction; since the acts of 1818, 1825, and 28, they can be applied to all trusts as fully as they can be in England by the common law of equity, or the provisions or construction of any statute.

They cover all the ground of equity which it is necessary to assume for the decision of this case; the defendant is a trustee for the purposes of the will, the bequests are to trustees either named or designated, who are capable of holding and distributing the funds entrusted to their management, the *cestuis qui trust* are either sufficiently described or easily ascertained by extrinsic circumstances, and the uses for which the dispositions are made, are not only valid but favored and protected by the law which we can effectuate without the exercise of any personal or prerogative jurisdiction.

We shall direct the administrator *de bonis non cum testamento annexo*, to pay the respective bequests to the persons appointed to receive and distribute them. They will be considered as trustees, acting under the supervision of this court, as a court of chancery, with the same powers over trusts as courts of equity in England, and the courts of this state possess and exercise. Though our original cognizance of the case depends on the residence of the parties to the suit, yet when the fund is under our control, we can proceed in its final distribution among the different claimants in the same manner, as if each was a party competent to become an original complainant by original bill. *Vide Baker vs. Biddle*, MSS.

When the fund shall be so ascertained, as to be capable of a final distribution, it will be directed to be applied exclusively to the objects designated in the will, as they existed at the time of her death, and shall continue till a final decree; if any shall then appear to have become extinct, the portion bequeathed to such object, must fall into the residuary fund as a lapsed legacy. Its appointment to other purposes or *cestuis qui trust*, than those which can, by equitable construction, be brought within the intention of the will or donor, is an exercise of that branch of the jurisdiction of the chancellor of England, which has been conferred on this court by no law, and cannot be exercised "*virtuti officii*," under our forms of government.

As the amount of the personal estate is evidently far short of the legacies made payable by the will, there must be a failure or abatement, unless the necessary amount can be raised out of the real estate not specifically devised. The testator has authorized the executor to sell the house in Chestnut street, and the Marlborough estate in Virginia, his powers devolve on the administrator D. B. N. C. T. A., by the acts of assembly of this state; 3 Smith's Laws of Pennsylvania, 433-4. 6 *ibid*, 102; and as he is a party before us, we can compel their execution, if the laws of Virginia recognize them as competent. But he has no power over any other portions of the real estate, nor are the heirs at law, or residuary devisees, parties to the suit; so that no decree which we could make would bind them, or the land situated in another state; our jurisdiction being both limited and local, we cannot compel parties

who reside out of the state, to appear on our process, and a sale of land in Virginia, under the authority of the court alone, would pass no title to the purchaser.

It is an acknowledged principle, that the title and disposition of real property, is exclusively subject to the laws of the country where it is situated, which can alone prescribe the mode by which a title can pass from one person to another; 7 Cranch, 116. 6 Wheaton 579. 9 Wheaton, 571. 10 Wheaton, 202; to which may be added the case of *Bryant vs. Hunter*, to which we have been referred, as authorizing the sale of the Virginia lands, now asked to be directed. *Vide* 2 Wheaton, 32, &c.

That was a suit originating in this court, affecting land in Kentucky; but as only five-sixths of the land were represented by the parties to the suit, the court confined their decree of sale to the interest of the five parties before them; the sixth party in interest resided in Virginia, as to whom the Supreme Court declared, "That the complainant must pursue his remedy, unless her representatives shall have the prudence voluntarily to join in the sales of any land, that may be made under this decree." 4 Wheaton, 34, 44, 45.

We are therefore following all these decisions of the Supreme Court, in refusing to make any further order of sale of real estate, other than the two parts thereof embraced in the power given by the will.

The decisions of the Supreme Court of the state, and of the High Court of Errors, which bear on the residuary devise in this will, may derange some of the specific devises; if the legacies are a charge on the real estate specifically devised, they might affect not only the devise of the eight acre lot, given to the yearly meeting, but other devises to persons, not parties to the suit, who must be heard before we can make any decree, touching such parts of the real estate. The application of the rule laid down in *Tucker vs. Hassendee*, 3 Yeates, 294. 99. 2 Binney's App. 525. 31.—*Nichols vs. Postlewait*—2 Dallas, 131. *Witman vs. Norton*, 6 Binney, 396; and *Commonwealth vs. Shelly*, 13 Sergeant and Rawle, 348, would absorb much of the real estate to pay the legacies; but if they should be considered as a charge only on the residuary fund, according to *Shaw vs. McCamron*, 11 Sergeant and Rawle, 252, they will not affect the devised lands. On this point we have formed no opinion.

It remains only to apply the foregoing view to the law of Pennsylvania to the dispositions of the will in question.

1. To the devise of the eight acre lot to the yearly meeting.

We know historically that this has been a religious society from the settlement of the province. We know from the acts of the legislature, that they have held real estate, and yet hold it, under deeds from the proprietor, from individuals, and by the laws of the state guaranteed by all its constitutions, have a perfect right and capacity to take, hold, and enjoy property without incorporation, or tenure in mortmain.

2. The bequest to the monthly meetings of women friends, is for a charitable use, which is good and lawful, and they are capable of taking and distributing the charity, according to the will of the donor in the most liberal and ample sort.

3. The bequest of the thirty pounds received by the father of the testatrix from Captain Newcastle and the interest, we consider to be intended as the payment of a debt which she considered herself to be morally and equitably bound to pay, and therefore direct it to be paid by the executor as a debt of the estate, to such Indians as are the relations of the said Newcastle, if to be found, if not to be found, to remain subject to the future order of the court.

4. As to the devises to the Indians, our opinion is, that they are good and valid. That the treasurer of the societies or meetings, or their committees for the time being, are capable of taking and distributing the

fund as a trustee under their direction, and that Indians are proper objects of charitable bequests. But they are to be applied to the relief of such Indians as have heretofore been under the care and supervision of the yearly meetings, or their committees respectively, and to be distributed only for such objects and purposes as were customary in the lifetime of the testatrix, such being her manifest intention.

5. As to all the devises to or for the benefit of the different meetings of Friends in Baltimore, Virginia, and Ohio, we are clearly of opinion that they are good and valid in law, and decree accordingly.

6. As to the bequest to the citizens of Winchester, to purchase a fire-engine, we consider it good as a charitable use, or one tending to public profit and the safety of property, and in case of taxes and burthens on the citizens; this is the substance and intent of the bequest, and being given for a good and meritorious object, it is not material by what name it is given, whether to the corporation, or the citizens who compose it, it must take effect, notwithstanding any misnomer or other defects of name, form, or circumstance.

7. The bond of Isaac Zane appearing to us to have been assumed by the testatrix as honestly due by one of her near relations, ought to be considered in equity as a debt due, and be paid by the executor out of her estate, as such was evidently her intention, and from the evidence reported by the master, we think the party now before the court entitled to receive it, and decree accordingly.

8. We order and decree, that the administrator *de bonis non* make sale of the house and lot in Chestnut street at such time and place as the court may hereafter direct, or private sale, at his discretion.

9. Also to make sale of the Marlborough estate in Virginia, in the same manner, if such sale is authorized by the law of Virginia. If such sale is not authorized, then we order and direct the administrator to make application for such authority to the legislature or such judicial tribunal as by the law of that state is competent to authorize such sale, according to the will of the testatrix, or the order of this court.

We have been asked to go farther, and decree a sale of all the undevised estate of the testatrix, as necessary to provide a fund to meet the various legacies and bequests. The counsel who made the application considering that the residuary clause in the will was to be so construed, that nothing should pass under it till all the former dispositions were satisfied.

As the residuary devisees are not before the court, and would not be bound by its decree, we have not considered, and shall express no opinion on that subject—having no power to affect real property in another state, but through the parties in interest, or those having power over it, we must confine our order for the sale of the estate to such parts of it as are in the hands, or within the control of the administrator under the authority of the will. We have full power to see that the will be faithfully and religiously observed and executed, but none to order a sale not directed to be made by any of its provisions.

## UNION CANAL COMPANY.

Annual Report of the Managers of the Union Canal Company of Pennsylvania, to the Stockholders November, 18th, 1834.

The Report required to be made by the President and Managers of the Union Canal Company to the Stockholders, in conformity with the provisions of the charter, is offered, on this occasion, not without much gratification on their part, as it exhibits the success of this important work, becoming yearly more and more evident.

The increased intercourse with the interior of the state, and particularly the western regions, through this

medium; the facilities of such intercourse, with the economy and safety of canal transportation; together with the augmentation and progressively increasing revenue arising from *tolls*; are all sure indications of present as well as the future prosperity of this important work: important, not only as a connecting link with the great state canals, but as also in regard to the commercial advantages it presents to the inhabitants of the interior, and to the citizens of Philadelphia, by the increased facilities, of trade through this avenue.

The Canal continued open, for navigable purposes last year, until the 15th of December; about which time it was necessary to draw the water off, for the purpose of making necessary and extensive repairs.

It was prepared for the passage of loaded boats earlier this spring than at any preceding period; and, in fact, the first boat passed the summit level of the Union Canal on the 9th day of March last.

It is a pleasing reflection, that, notwithstanding the uncommonly dry season of the past summer, and present autumn, there has been no suspension of trade, on this canal, in consequence of a scarcity of water. The summit level, (of which fears have heretofore been entertained,) had not only at all times a sufficient supply of water for the passage of boats with cargoes of from twenty-five to thirty tons each, but also acted as a reservoir, in furnishing a supply to some of the levels immediately east of it, in the neighborhood of Meyers-town, where the nature of the limestone ground has always proved a great drain upon the Canal, by leaks, difficult to overcome, and which can only be effectually remedied by planking. Part of these levels were lined with plank last season; and will be completed, as well as all the other defective parts, during the ensuing winter, and be ready for the opening of the canal next spring.

In thus keeping up, during this extraordinary drought, an ample supply of water for navigable purposes, occasional use was made of the steam-engine, which had recently been established at Mr. McLaughlin's pond, near Lebanon, for the purpose of elevating and conducting the water from that point to the summit level. The efficacy of these works, in producing the desired result, has been completely and satisfactorily tested the present season. The Great Dam on the Swatara, at the Gap of the Blue Mountain, has been largely drawn upon, during the dry season, for keeping up a supply of water on the main line of Canal, and has entirely answered this important purpose. Owing to the large supply of water necessarily drawn from this grand reservoir, and the long continued drought in the mountain region, the navigation from Pine Grove has been interrupted for the latter part of the season.

The improvements contemplated, and explained in the Report of last year, have been prosecuted with as much despatch as was compatible with the nature of the work, without interfering with the navigation.

The new Cylindrical Feeder, from the water-works on the Swatara to the summit level, is in part executed, and will be completed early next season. By the recommendation of the Engineer, Benjamin Aycrigg, Esq., it has been deemed proper, both for permanency and economy, to construct as much of the Cylindrical Feeder of brick-work as practicable. Where the Feeder crosses ravines, and has to be elevated above the ground the wooden cylinder is used, raised upon substantial frame trestles.

The Committee of Inspection, who lately returned from visiting the works of the Company, report most favorably on this part of the improvement, constructed under the eye of a competent Engineer, as being well adapted for the important purpose intended, of conducting the water through this extended cylinder of three miles and quarter, without being subject, as heretofore, to a great loss by means of leakage and evaporation. They also speak of finding the whole main line of the Canal in excellent navigable order, with the ex-

ception of points near Meyerstown, and in the vicinity of Hammaker's Dam, which will be remedied before another boating season arrives. The necessary plank and materials for those defective parts being purchased, and already on the ground, and waiting for the cessation of trade upon the Canal, to commence operations, not only there, but to continue and finish with double lining the bottom of the summit level.

The necessary expenses attending these improvements have been great; and the fund from which they were payable, viz. the State subscription of \$200,000, not being available, in consequence of the depressed state of the money market, the Managers, agreeably to the recommendation of the stock and Loan Holders, applied the receipts of tolls to the payment of these expenses, which will be chargeable to the State Loan, and liquidated from this fund as soon as the same can be advantageously disposed of: \$20,000 only of the Stock having yet been sold, at a fraction above the par value.

The tolls received the current year, from the first day of November, 1833, to the first of November, 1834, amount to \$119,870 55 cents; being an increase of nearly one-sixth beyond the receipts of the preceding year, and upwards of double the amount received for Tolls in 1832.

It will be perceived by the statement annexed, that the principal increase in Tolls for the present year has been derived from the quantities of merchandise shipped westward. A much greater increase would, no doubt, have taken place, had the waters of the Ohio and the Susquehanna been in a state adapted to the navigation of these important streams. The long-continued drought, however, east as well as west of the mountains, affected these rivers to such a degree, that it was not practicable to forward the products of the west, without great inconvenience to points on the canal, from whence they might, at a cheap and easy rate, find a profitably eastern market. These disappointments will occur, when we have only the natural streams to rely on: they are, however, yearly and daily passing away. The obstacles which nature has placed in the way are fast removing by the persevering energy, industry, and skill of man. Pennsylvania has done much to accomplish this. The stupendous works of the State, by means of canals and rail roads, extending the whole length of the Commonwealth from east to west, and embracing the fertile valleys of the North and West Branches of the Susquehanna, are proud monuments of her capacity, enterprise, and of her resources. When we contemplate these works of internal improvement now completed, (or nearly so,) when we take into consideration the much desired connection with the Ohio Canal, and all the other varied sources from which trade may be expected to be multiplied by the facilities thus afforded; we may congratulate ourselves upon the happy issue of what has already been accomplished, and look with flattering anticipations as it regards our future prospects. In full confidence that the Union Canal, from its structure, location, and abundant supply of water, will be one of the principal auxiliaries in promoting the internal trade of the State, the Managers of which, after having expended large sums of money in prosecuting their work, and acting as the advanced pioneers in connecting the waters of the east with that of the west, congratulate their Stockholders upon the cheering prospects of an ample remuneration for the heavy expenditures incurred.

The subjoined statement exhibits the Treasurer's Annual Account of Receipts and Expenditures; also the amount of tolls received; together with the quantity of tonnage, and particular kinds of articles, transported through the Union Canal, from the first day of November, 1833, to the first day of November, 1834.

All of which is respectfully submitted, by

WILLIAM READ, President.

PHILADELPHIA, Nov. 18, 1834.

VOL. XIV.

44

*Union Canal Company of Pennsylvania in account with  
Thomas P. Roberts, Treasurer.*

DR.

Nov. 1. 1833.

To Cash expended by the Board of Managers from

November 1, 1833, to February 1, 1834, viz:—

Salaries to officers \$1,125 00

Remitted William Lehman  
resident engineer, to  
meet payments at Lebanon,  
for improvement and  
repairs, lock keepers' and  
collectors' wages, and incidental  
expenses, at that  
place 16,949 35

Paid for lead for iron pipes 180 00

Balance of interest due

Stockholders 2,000 00

Loaned on collateral security 5,000 00

Fees for professional services 400 00

Current expenses 224 68

Issuing permits at Fairmount 384 50

On account of weigh Scales

at Pine Grove 300 00

For surveying, drafts, &c. 221 25

\$26,784 78

Feb. 1, 1834.

To Cash expended from February 1, 1834, to May 1, 1834, viz.

Salaries to officers \$1,125 00

Remitted William Lehman,  
resident engineer, to meet  
payments at Lebanon, for  
improvement and repairs,  
lock keepers' and collectors'  
wages, and incidental  
expenses 24,669 16

Old dividend 360 00

Oil for water works 68 54

Balance in full for weigh  
locks, scales, &c. 4,691 65

Interest on Stock of the  
new subscription 13,500 00

William Lehman, R. E. old  
account 50 00

J. Good, advanced him for  
change 25 00

Current expenses 398 23

44,887 58

Aug. 1.

To Cash expended from May 1, 1834, to August 1, 1834.

Officers' salaries \$1,125 00

Remitted William Lehman,  
resident engineer, to meet  
payments at Lebanon, for  
improvement and repairs,  
lock keepers' and collectors'  
wages, incidental  
expenses, &c. 18,630 71

Interest on loans, due July  
16th 24,574 50

Band iron for tunnel cylinders 3,790 21

Fees for professional services 300 00

Oil for water works 356 36

Old dividends and interest 318 35

Current expenses 532 71

49,327 84

May 1.

To Cash expended from August 1, 1834, to November 1, 1834: viz.—

Salaries to officers \$1,125 00

William Lehman, Resident Engineer, to meet payment at Lebanon, for improvements and repairs, lock keepers' and collectors' wages, incidental expenses, &c.	18,166 62	
Oil and spun yarn for water works	156 75	
Interest on stock and loans	38,086 50	
Damages	600 00	
Issuing permits at Fairmount	204 00	
Current Expenses	239 70	
		58,578 57
Balance		6,924 13
		<u>\$186,502 90</u>

## CR.

Nov. 1, 1833.		
By balance as per last settlement	\$8,326 64	
By Cash received from November 1, 1833, to February 1, 1834, viz.—		
From tolls	\$13,398 04	
From limestone sold	2 88	
From lumber sold	88 28	
From J. Good, amount returned	25 00	
From lottery contract	7,500 00	
From coal screenings sold	7 50	
		21,021 70

Feb. 1, 1834.

By Cash received from February 1, to May 1.		
From Interest on State Loan of \$200,000	4,500 00	
From loans returned, including interest	18,808 83	
From limestone sold	11 72	
From wood sold	3 12	
From tolls	19,797 44	
		43,121 11

By Cash received from May 1, to August 1. May 1.

From rent of oil mill	240 00	
From limestone sold	21 46	
From interest on State Loan of \$200,000	4,500 00	
From tolls	45,956 11	
		50,717 57

Aug. 1.

By Cash received from August 1, to November 1.		
From limestone sold	30 68	
From nett proceeds of State Loan sold	20,022 00	
From interest on Loan of \$140,000	2,580 00	
From tolls	40,683 20	
		63,315 88
		<u>\$186,502 90</u>

By Balance in Banks as per settlement \$6,924 13

E E,

THOMAS P. ROBERTS, Treasurer.

PHILADA. Nov. 1, 1834.

Examined, compared with the original entries, and found correct, showing a balance of cash on hand, agreeable to the Treasurer's account, of Six Thousand nine hundred and twenty-four dollars thirteen cents, on the first of November, 1834.

WILLIAM BOYD, } Committee of  
CHARLES GRAFF, } Accounts.

Statement of the Amount of Tonnage which passed the union Canal, from the 1st of November, 1833, to the 1st of November 1834.

Articles that passed from West to East.

	Tons cwt. qr. lb.	Tons cwt. qr. lb.
Flour, 63,972 barrels	6,111 13 3 9	
Wheat and Rye, 299,818 bushels	8,030 17 1 23	
Whiskey, 13,627 barrels	1,825 1 1 7	
Iron, bar, pig, and castings	3,617 1 0 12	
Iron ore	1,173 00 0 00	
Coal, bituminous	2,578 00 0 00	
Coal, anthracite	6,911 14 0 00	
Lumber	12,995 12 0 00	
Shingles	3,139 0 0 00	
Staves	593 1 0 00	
Tobacco	1,010 11 0 06	

Sundries—consist-

ing of corn, flaxseed, hemp, wool, clover seed, lard, butter, pork, live hogs, bacon, leather, limestone, lime, marble, &c.	5,633 19 1 8	
		53,619 11 0 12

Articles that passed from East to West.

Merchandise	14,741 11 0 1	
Fish, 16,920 barrels	2,266 2 1 00	
Salt, 88,109 bushels	2,360 1 1 22	
Rail iron	2,575 13 2 07	
Sundries—consisting of grindstones, marble, fruit, bricks, &c.	328 16 3 10	
Gypsum	8,644 9 0 00	
		30,916 14 0 12
	Tons	84,536 05 0 24

The total number of boats which passed the canal was 5,227.

Amount of Tolls received from the 1st of November, 1833, to the 1st of November, 1834, \$119,870 53.

THOMAS P. ROBERTS, Treasurer.

PHILADA. Nov. 1, 1834.

President.—JACOB GRATZ.

Managers.

William Read,	William Y. Birch,
William Boyd,	Gustavus Calhoun,
Charles Graff,	George Vaux,
William W. Fisher,	Joseph Hopkinson,
Francis G. Smith,	Thomas Biddle,
Peter Hahn,	William H. Keating.
Engineers in the employment of the Company.	
Canvass White, Chief Engineer.	
Benjamin Ayerigg, Assistant do.	
William Lehman, Resident Engineer.	

A Wild Cat, measuring three feet from the tip of the nose to the end of the tail, was killed near Shippensburg on Thursday the 13th inst. by Mr. Joseph Nevin. Mr. Nevin had three dogs with him which were unable to cope with the ferocious animal. It is said to be the first ever killed in that neighborhood.

DROUGHT.—The Carlisle (Pa.) Herald of Wednesday mentions that a drought of unusual severity for the season, prevails in that neighborhood. The streams and wells in that region are represented as totally failing, and the fields quite bare.

MANUFACTORIES IN PENNSYLVANIA, &c.—(Continued from page 350.) Document 13.—No. 4  
B.—Statements of the Manufactories situated in the northeastern part of the County of Philadelphia, vicinity of Frankfort.

Owner's Name.	Description.	Capital invested in buildings and machinery.	Cash capital employed.	Domestic raw material employed.	Foreign raw material employed.	Tons of coal.	Cords of wood.	Nature of the power.	Number of hands actually employed.	Wages paid per annum.	Description, quantity, and value of goods manufactured.	Annual rate of profit on capital employed.	Market.	No. of horses.	Remarks.
William Whicker	Cotton spinning	\$45,000	12,000 in 300 bales materials	—	—	100	—	water	85	men, \$120 wom. 50 cts. child, 25 "	to 50,000 dozen	from 5 N. Yr to 30 and per ct. Phila.	—	4	
Steel	Cotton weaving	50,000	30,000 wages	—	—	—	300	do	130	18,500	—	—	—	—	120,000 lbs. wool manuf'd annually.
Holmesburg works	Cotton	80,000	50,000	—	—	30	—	do	40	7,800	—	—	—	—	30 tons hemp manufactured in yarn, twine, &c.
Geo. M'Callmont	Woolen	100,000	40,000	—	—	50	200	do	6	1,900	—	—	—	—	104,000 lbs. cotton dyed, 224,640 umbrellas made.
Garret	Flax	10,000	—	—	—	15	—	do	30	5,200	—	—	—	—	3248 750 yds. printed in 1831.
Knight & Co.	Cotton & umbrella	10,000	15,000	—	—	150	100	—	42 men 10 boys	men, \$1 boys, 36 cts. wom. 50 cts.	—	—	—	—	18,000 yards printed annually.
Comly	Cotton printing	75,000	60,000	—	—	40	600	—	6	1,900	—	—	—	—	1456,000 yds. dyed and finished.
Brown's	Cotton printing	5,000	1,500	—	—	—	—	horse	10	—	—	—	—	—	1,400,000 yds. finished only, and 41,000 lbs yarn dyed.
Jeremiah Horrocks	Woolen cloth and cloth dyeing	15,000	—	superfine 300 lbs. Dye 170,000 indigo 10,000bs dyewo'ts	—	150	800	steam	1 wom.	50 cts.	—	—	—	—	72,800 lbs. yarn dyed in 1831.
Shuttleworth	Cotton weaving	4,000	3,000	—	—	—	—	water	4	1,000	—	—	—	—	3,000,000 yds. printed annually.
Ripka	Cotton printing	25,000	90,000	—	—	20	—	do	100	12,600	750,000 yds.	—	—	—	450,000 yds. dyed in 1831. Est. new.
Pennipack	Cotton printing	70,000	10,000	—	—	600	—	do	80	10,000	—	—	—	—	600,000 yds. dyed in 1831.
Washington	Cotton dyeing	5,000	12,000	—	—	15	—	water	6	2,000	—	—	—	—	3,000,000 yds. printed annually.
Wilson's	Cotton printing	6,000	85,000	—	—	300	—	do	10	3,000	—	—	—	—	—
La Grange	Cotton printing	50,000	7,500	—	—	100	—	do	12	14,200	—	—	—	—	—
Vereers	Iron works	12,000	—	—	—	—	—	do	—	3,744	6,000 milsaws	—	—	—	—
Boyers	Iron works	10,000	5,000	—	—	20	—	do	7	2,088	4,000 spades	—	—	—	—
Rowland's	Iron works	10,000	1,800	—	—	40	—	do	7	2,400	10,800 spades	—	—	—	—
Cutpin	Cotton spinning	2,000	6,000	—	—	—	—	do	4	1,250	1,300 milsaws	—	—	—	—
Richardson	Cotton dyeing	17,000	8,000	—	—	—	—	do	20	5,200	—	—	—	—	—
Shallcross	Cotton dyeing	12,000	30,000	—	—	—	—	do	40	9,300	—	—	—	—	—
Blacks	Iron works	20,000	15,000	—	—	150	—	do	40	10,000	—	—	—	—	—
T. & B. Roland	Iron works	20,000	25,000	—	—	190	—	do	40	10,400	—	—	—	—	—
J. & J. Roland	Iron machinery	25,000	6,000	—	—	190	—	do	10	3,000	—	—	—	—	—
Jenks	Iron machinery	50,000	80,000	—	—	200	800	do	110	33,000	—	—	—	—	—
Pilling & Bolton	Bleaching	30,000	20,000	—	—	700	—	do	20	6,000	—	—	—	—	—

The above statement is taken from the data collected by a committee appointed by the citizens of Frankfort, and obtained, with few exceptions, from the manufacturers themselves. It has been altered from communications made by manufacturers to Messrs. Carey and Biddle, whenever any difference has appeared in their reports.

Manufacture, &c.  
—Spades and shovels. No. not given.  
—Rolling and slitting. Do.  
—Quantity and value not given.  
—3,000,000 yds. bleached.

## Document 13.—No. 5.

## C.—Manufactures of Delaware County, State of Pennsylvania.

Mills and Factories.	Quantity manufactured.	Nature of the articles.	Value per annum.	No. of persons employed, and their families.
Four rolling and slitting mills	1,400 tons, say	300 tons sheet iron	45,000	205
Two nail factories		600 tons nails	81,000	
Four tilt mills		500 tons hoop and rods	60,000	
Thirteen paper mills	41,000 reams	Spades and shovels	21,175	30
Eleven cotton mills	900,000 do.	Various kinds of paper	215,000	400
Three cotton weaving	3,000,000 yds.	Yarn	250,000	600—19,500 spindles.
Two cotton spinning	180,000 lbs.	Ticking, muslin, &c.	350,000	480—400 power looms.
Eight woolen mills	900,000 yds.	Yarn	50,000	120
		Flannel, satinete, &c.	300,000	350
			\$1,372,175	2,185

For the accuracy of the above statement, although appearing in round numbers, the members of the committee of five of Delaware county express their belief.

## Document 13.—No. 6.

## D.—Iron Works of Schuylkill County.

Furnaces.	Owner's names.	Quantities manufactured.	
Pine grove	George Eckert	700 tons pigs, 300 castings	Not in operation this year.
Windsor	George Keim	550 do do 250 do	
Quincy		500 do do	
<i>Forges.</i>			
Pine Grove	Raudenbush	150 tons bars	
Schuylkill Haven	John Pott	150 do do	
Windsor, 2 furnaces	George Keim	300 do do	
Schuylkill, Port Clinton	Jeremiah Boone	200 do do	
Brunswick	Focht	100 do do	
McKeansburg	Lewis Audenried	100 do do	
Mount Hebron	Evan E. Rigg.	150 do do	

## Document 13.—No. 7.

## E.—Result of the information obtained by A. M. Provost, respecting the Iron Works of Lancaster County.

Furnaces.	Owners' names.	Quantity of pigs and castings.	Quantities of bar.	Rolling mills and Nail factories.
Cornwall	Bird Coleman	1,200 tons		Martick, Jas. Coleman's estate; 500 tons nails & 500 tons rolled iron.
Colebrook	Bird Coleman	1,000 do		
Elizabeth	James Coleman	1,000 do		
Conawingo	Hopkins and Orrick	800 do		Laurel, Buckley's; 500 tons nails and 500 tons rolled iron.
Mount Hope	Edward B. Grubb	1,000 do		
<i>Forges.</i>				
Hopewell	Bird Coleman	—	250 tons.	
Martick	Jas. Coleman's estate	—	300 do	
Brook	Buckley	—	150 do	
Ringwood	Buckley	—	250 do	
Poole	Samuel Jacobs	—	200 do	
Spring	Samuel Jacobs	—	200 do	
Windsor	Robert Jenkins	—	200 do	
Hibernia	Charles Brooks	—	200 do	
Sadsburg	James Prowell	—	200 do	
Rock	John Caldwell	—	200 do	
Webbs	John Caldwell	—	200 do	

## Document 13.—No. 8.

## F.—Abstract of Iron Works in York County.

Forges.	Ownrs.	Quantity manufactured.
Codorus	Edward B. Grubb	350 tons bar.
Spring	B. Coleman	200 do
Castlefield	B. Coleman	300 do

## Document 13.—No. 9.

G. No. 1.—Abstract of answers received from Manufacturers to the queries No. 1 to 40, contained in the Secretary's letter.

Questions.	Whitaker, Philadel. Co	Horricks, Philadelphia Co.	Crozier, Delaware Co.	M. & H. Coate's, Chester.
No. 1, 2 & 3.	Cotton mill paper. Water power.	Dying establish. Steam Power. 1821. Ind. con.	Cotton mill, 1825. Water power. Individual concern.	Rolling mill & nail. Water pow. 1829.
4	About \$4,500.	About \$15,000.	\$15,000.	About \$70,000.
5	Raw materials \$12,000 wages, &c. 10 to 12.	-	\$5,168 wages per an.	
6	Fluctuating at times, a losing business.	-	3,757 for mechanics castings.	
7	Competition, excess, importation.	-	In 1829 & '30, profits null, revived since.	Profits decreased by competition.
8	From 5 to 20.	-	Woolen manufactur's doing well, but complain of last tariff.	
9	Until 1824, \$ 10,000; since, 20 to 30,000.	Dyed 1,456,000 yds., finished 1,400,000, & 41,600 lbs. cot.		
10	300 bales cotton American.	Foreign dye-woods princ'y.	383 bales cotton.	900 tons blooms, 500 tons coal.
11	from G. Britain.	-	No foreign articles same kind imported.	No cut nails imported.
12	15 men at \$1, 20 women at 50 cents, and 30 children at 25.	42 men, 10 boys, 1 woman.	15 men, 16 women, 20 children; at \$7 50, 2 25, & 1 50 pr. week.	60 men, from \$1 to \$1 50 per day.
13	10 to 12 hours all the year.	10½ in summer, 10 in winter.	12 hours all the year.	Rollers day & night, nailers from sunrise to sun-set.
14	Agriculturists lower in N. England, women lower in G. B. ½.	-	In other branches working fewer hours they receive less.	Out-doors work, 75 per day.
15	Four horses.	Four horses.	Two or three horses.	1 horse, and boat on canal.
16	Philadelphia and New York.	-	Philadelphia, sold to power looms.	Pennsylvania and Louisiana.
17	Very often to large extent.	-	No foreign competition.	
18	All over the U. States.	-	In the United States.	
19	Some believe sent to Mexico.	-	A few small orders Mexico.	
20	Six and eight months' credit.	-	Yarn sells at 4 months' credit.	Four and six months' credit.
21	Generally decreasing.	-	Gradually decreasing.	Decreased \$20 p. tn.
22	Say, 5-4 sheeting in 1825, 18 cents, in 1830, 10 cents.	-	In 1821, 47c, 1830, 20c. in 1832, 25 to 27 cts.	Decrease in iron and improvements.
23	About 30 or 40 pr. ct.	-	None in coarse cotton fabrics, but present duties do not always protect against European sacrifices.	Private concern.
24	A specific cash duty.	-		None.
25	First years unprofitable, the last about 10 per cent.	Profits expended in improvements.	About 8 per cent. beyond interest on the capital, 2-5 laid out in improvements.	
26	At times below cost, when materials and labor is each half.	-	Raw material half value yarn, wages 1-5, outdoor labor 1-10.	Blooms \$65, labour \$17 to \$20, nails \$120 per ton.
27	20 or 30 lbs. flour, 100 tons coal, wood, oil, iron, and subsistence for 100.	300 lbs. flour, 800 cords wood, 150 tons coal.	Food and apparel for 105 persons.	
28	-	-	-	
29	Should abandon.	Should abandon.	Should be compelled to abandon.	Amount in the U. S. 40,000 tons. Would be abandoned.
30	Brought up to this alone; cannot answer	Capit'l being fixed in buildings, &c. would ruin.	Capital in machinery being destroyed, cannot say.	

(Continued on next page.)

## Document 13.—No. 9.—(Continued.)

Questions.	Whitaker, Philadel. Co	Horricks, Phila delphia.	Crozier, Delaware Co.	M. & H. Coate's, Chester.
31 & 32	—	—	Cotton spinning very uninviting.	Canals and rail roads would convey imported articles every where.
34	Cannot say; with present duties does not always yield six.	If any reaction on present duties, stop all establishments.	—	—
37	In our branch $\frac{3}{4}$ of the whole.	—	—	No cut nails imported.

(To be continued.)

## FOREIGN LITERATURE AND SCIENCE.

The Executive Board of the Library of Foreign Literature and Science, respectfully report to the Stockholders,

That in reviewing the operations of the Library for the past year, they have found no good reason to doubt the utility of the institution, nor that it will ultimately have an adequate support, on the contrary they feel encouraged to proceed in the undertaking, and to call upon the Stockholders for renewed exertions on their part, to place the institution upon a permanent basis, and to give extension to its operations. These remarks are in part based upon an examination of the extent to which the Library has been used, within the present year, 1834, which has resulted in showing that three hundred and ninety volumes have been applied for, and issued by the Librarian to Stockholders and subscribers, the Board feel confident that the number of applications will be very much increased when certain additions shall have been made to the present collections.

When the Library of Foreign Literature and Science was first proposed, eighty-six names were subscribed, or authorized to be subscribed, to the list, which was circulated to ascertain the amount of patronage which the institution would receive—this warranted the appropriation of the last twenty-five hundred dollars for the purchase of books, and collections were accordingly made by the Executive Board, in French, German, Spanish and Italian literature, and of French scientific works, to the extent of the supposed means of the library company. The number of payments subsequently refused, has incumbered the library with a debt which, though amounting to but five hundred dollars, materially interferes with its operations. This debt must be paid by an increased disposal of stock, by its appropriation of the annual payments from the present stockholders, or by the sale of a portion of the books. That neither of the latter modes may be of necessity resorted to, is certainly a matter of interest to the stockholders, and should receive their zealous co-operation with the Board, in endeavoring to aid the further sale of the shares of the company. That the stockholders may see that the extinguishment of this debt would at once enable the Board to add to the already valuable collections of the library, the following statements are presented.

The debt would be liquidated by the sale of seventeen shares of stock. The number of stockholders at present is sixty-five, the annual contributions from whom will yield one hundred and eighty-five dollars; adding the contributions of seventeen stockholders, and the subscriptions from nine annual subscribers, gives two hundred and ninety dollars for the income of the Library. The expenses may be estimated at fifty dollars for the Librarian; rent twenty-five dollars; contingencies twenty-five; making a total of one hundred dollars, and leaving a disposable income of one hundred

and ninety dollars to be applied to the purchase of the popular works of the day, chiefly those of French literature.

The Board throw themselves upon the generosity of those gentlemen who gave their countenance to the projected Library, and trust that they will redeem the pledge given of their support to the institution.

The Board believe that many of our Literary institutions, have had in their infancy to contend against difficulties quite as great as those which this Library is now struggling against, and they look for aid to surmount them, to the true friends and patrons of Foreign Literature in our city.

By order of the Executive Board.

JOHN BELL, Chairman.

JAMES J. BARCLAY, Secretary.

## CANAL TRADE.

COLLECTOR'S OFFICE, ?

W. D. Pa. Canal, Allegheny, Nov. 29, 1834. }

Whole amount received from Nov. 1, 1834,  
as per last weekly statement, \$1,201 10 $\frac{1}{2}$   
Amount received in the week ending November 29, 1834, 573 68 $\frac{1}{2}$

Whole amount received to Nov. 29, 1834, \$1,774 79

27 boats cleared, having tonnage 507,922 lbs.  
For. tonnage received from the east, 977,605 "

Total tonnage of the week, 1,485,527 lbs.

## NOVEMBER.

Boats cleared.

First week tolls,	\$479 50 $\frac{1}{2}$	41
2d " "	391 05 $\frac{1}{2}$	38
3d " "	330 54	30
4th " "	573 68 $\frac{1}{2}$	27
	\$1,774 79	136

	Tonnage sent East.	For. Tonnage received,
1st week, lbs.	1,660,971	lbs. 1,313,200
2d " "	421,561	" 1,478,292
3d " "	340,648	" 1,050,503
4th " "	507,922	" 977,605
	2,931,102	4,819,600
		2,931,102
Total tonnage of the month,		lbs. 7,750,702

From the Philadelphia Gazette.

# PROCEEDINGS OF COUNCILS.

Thursday evening, Nov. 27th, 1834.

## SELECT COUNCIL.

The President laid before Council a communication from Gregory Para, claiming damages for injury sustained by the opening of Delaware Avenue, and asking for the appointment of a committee to investigate his claims. Referred to committee on Delaware Avenue.

The President submitted a communication from the City Commissioners in relation to appropriations which have been overdrawn. Referred to committee on finance.

The President announced that he had received a letter from the Commissioners of the district of Spring Garden, acknowledging the receipt of Copies of the digest of City ordinances, presented by order of Councils.

Mr. Wetherill presented a petition from Robert Johnson, one of the city watch, who on the night of the ward election, while in the discharge of his duty, was assaulted by a desperate mob, and severely injured, praying for relief.

Mr. McCreedy presented a petition from William Osborne, one of the city watch, who was also severely injured by a desperate mob, on the night of the ward election. Similar petitions were presented in Common Council by Mr. Lancaster. Referred to committee on lighting and watching.

Mr. Lippincott, in his place asked and obtained leave to read an ordinance for raising by loan, a sum of money to supply the deficiencies of the present year.

Section 1st provides that the Mayor shall raise, by loan, at an interest not exceeding five per cent, the sum of \$50,000, for which certificates of \$100 each or larger, shall be issued, redeemable in 1867.

Section 2d directs that the money so raised shall be appropriated as follows:—

For new paving,	\$2137 19
Repaving,	4608 00
Cleaning the streets,	6030 42
Pumps and Wells,	2082 04
Regulating ascents and descents,	200 00
City Hall,	200 00
Market,	100 00
Incidental expenses of Councils,	116 04
Repaving over water pipes,	1093 47
City property,	25947 16
Fair Mount works	1400 05
Expenses hereafter ordered,	3985 63

The bill was taken up for second reading, when Mr. Lippincott remarked that the measure had received the sanction of the Finance Committee. The Treasury was nearly exhausted, the present balance being about 11,000 dollars. Less money had been received this year for taxes, than was received at the same time last year, probably owing to the embarrassments of the times. Mr. L. said the exhausted state of the Treasury was owing to the heavy improvements which had been ordered during the course of the last year. Many of these improvements were of a permanent character, and would abundantly repay, in time, the expenditures now required.

Mr. Price rose, not to object to the passage of the ordinance, but to take exception to the manner in which it had been brought forward. It had been introduced by a member in his place, and was not the report of the Finance committee, although he had alleged that the bill was sanctioned by the members of that committee. The measure appeared to be informal—it was an important matter; and should have been brought forward by the regular committee. Not long since Select Council had refused to receive a report from Common

Council because it was not regularly signed, and here is a report, or an ordinance not signed at all.

Mr. Lippincott replied that it had been the practice for years for ordinances from the Finance Committee, to be brought forward in this way.

Mr. Wetherill made reference to the necessity of the immediate passage of the bill.

Mr. Eyre remarked that the features of the ordinance had been submitted to the members of the finance committee, and agreed to. He could not see the force of the objections which had been raised against the bill, and thought the member was contending for shadows.

The bill was then read a second and a third time and agreed to. Common Council concurred.

Mr. Price offered a resolution directing the clerks of Councils to forward to the Senate and House of Representatives of this State, six copies of the new digest of City Ordinances, which was agreed to. Common Council concurred, with an amendment directing copies to be sent to the Atheneum, Philadelphia Library and Franklin Institute.

## COMMON COUNCIL.

The President submitted the following communication from the City Commissioners.

City Commissioners Office, }  
Nov. 27, 1834, }

To the President and Members of the Common Council.

Gentlemen,—The City Commissioners respectfully state to Council, that the following appropriations are overdrawn, to the several amounts stated, viz.

No. 2 Unpaved Streets,	\$3408 00
3. Cleansing the city,	2030 42
6. Pumps and Wells,	692 04
11. Incidental expenses to Councils	16 04
13. Repaving over Water Pipes &c,	93 47
14 City Property,	14947 17
21. Expenses authorized by Councils,	2312 46

They further respectfully state to Councils that the following expenditures will probably be made on sundry appropriations from this date until the 31st of December next, viz:

No. 1. New Paving (including \$862 81 which is to the credit of this appropriation.)	
2. Unpaved Streets,	500
3. Cleansing the City,	2000
6. Pumps and wells, (including unpaid bills of \$873 10)	1200
13. Repairing over Water Pipes, &c.	600
14. City Property, including payments on account of Market railing, and at Franklin Square, and work at Rittenhouse and Logan Squares,	\$8000
No. 21. Expenses authorized by Councils,	1000

Respectfully submitted,

By order of the City Commissioners,  
ROBERT H. SMITH, City Clerk.

Mr. Lancaster presented a petition relative to alterations and improvements in the stalls of the market house in Second street between Pine and South. Referred to committee on markets.

Mr. Gilder, for the paving committee, reported a resolution authorizing the repaving of High street, between Schuylkill Seventh and Eighth street, which was agreed to. Select Council concurred.

The ordinance relative to the position of gutters, and the size of curb stones in small streets, (noticed in our last report,) was called up and adopted. Select Council concurred, after amending the bill so as it may apply to streets repaved, as well as new pavements.

The ordinance relative to the footway on Broad street, opposite Penn Square, (noticed in our last report) was taken up for consideration and agreed to. In

Select Council, on motion of Mr. Eyre, the subject was postponed for the present.

A resolution offered by Mr. Rowland suggesting the propriety of renting the drawbridge wharf, as a wood wharf, was referred to the committee on Delaware wharves.

Councils met in joint Convention for the purpose of electing six gentlemen to serve as commissioners of the Will's Hospital. Mr. Price of the Select. and Mr. Canby of Common Council, were appointed tellers, who reported that 28 votes had been received, which were cast for the following persons:

Charles Stout	28 votes.
Andrew M. Jones	28 "
Jacob Thomas	28 "
Michael McGrath	28 "
Thomas Snowden	28 "
John R. Paul	27 "
Scattering	1

From the Petersburg Intelligencer.

#### PETERSBURG RAIL ROAD.

We are glad to find that the business of our Rail Road seems to be increasing steadily. Cotton has been pouring in for the last month or two; and it would afford pleasure to any person, even if not interested in the work, to behold the long train of engines and cars heavily laden with produce rolling daily into town.—Perhaps the most magnificent sight we have ever beheld we witnessed on Thursday about dusk. We were walking on Washington Street, when hearing a noise like distant thunder, we paused to see the train pass by.—Anon it came,—first an engine panting like a warhorse and blowing like a meteor, and then car after car apparently without termination, flashed by us, accompanied with a roar that shook the earth, and a rapidity of motion that made us grow dizzy with the spectacle.—Our readers can judge of the length of the train and the quality of produce brought in, by the following account, with which we were furnished at the office of the company.

#### LOAD.

27 hds Tobacco, 305 bales cotton, 463 bbls flour, 6 kegs manufactured Tobacco	192,000 lbs.
35 cars, 2 engines and tenders, and 10 men,	148,300
	340,300

Or a gross weight in motion of upwards of 150 tons. This immense load, we are informed was brought from Blakeley at an average speed of 10 miles per hour. The engine to which it was attached was assisted up the various rises of the rail road by another engine; and when it is recollected that the locomotives on our road are of small size and probably lighter than any in use on other rail roads, the extent of their performance may be well appreciated. We understand that the two engines in question have been running steadily for the last year, and each generally carries, along with the mail and passengers, from 40 to 50 tons of produce. We would be glad to know if any of the engines north of the Potomac can surpass this.

possessed by his Majesty's troops on the 25th instant. The enemy after letting us get within a day's march of the place, burned the fort, and ran away by the light of it, at night, going down the Ohio by water, to the number of about five hundred men, according to our best information. This possession of the fort has been matter of surprise to the whole army, and we cannot attribute it to more probable causes, than the weakness of the enemy, want of provisions, and the defection of their Indians. Of these circumstances we were luckily informed by three prisoners, who providentially fell into our hands at Loyal Hanna, when we despaired of proceeding further. A council of war had determined, that it was not advisable to advance this season beyond that place, but the above information caused us to march on without tents or baggage, and with only a light train of artillery. We have thus happily succeeded. It would be tedious, and I think it unnecessary, to relate every trivial circumstance, that has happened since my last. To do this, if needful, shall be the employment of a leisure hour, when I shall have the pleasure to pay my respects to your Honor.

The General intends to wait here a few days to settle matters with the Indians, and then all the troops, except a sufficient garrison to secure the place, will march to their respective governments. I give your Honor this early notice, that your directions relative to the troops of Virginia may meet me on the road. I cannot help reminding you, in this place, of the hardships they have undergone, and of their present naked condition, that you may judge if it is not essential for them to have some little recess from fatigue, and time to provide themselves with necessities. At present they are destitute of every comfort of life. If I do not get your orders to the contrary, I shall march the troops under my command directly to Winchester. They may then be disposed of, as you shall afterwards direct.

General Forbes desires me to inform you, that he is prevented, by a multiplicity of affairs, from writing to you so fully now, as he would otherwise have done.—He has written to the commanding officers stationed on the communication from hence to Winchester, relative to the conduct of the Little Carpenter, a chief of the Cherokees, the purport of which was to desire, that they would escort him from one place to another to prevent his doing any mischief to the inhabitants.

This fortunate, and, indeed, unexpected success of our arms will be attended with happy effects. The Delawares are suing for peace, and I doubt not that the other tribes on the Ohio will follow their example. A trade, free, open, and on equitable terms is what they seem much to desire, and I do not know so effectual a way of riveting them to our interest, as by sending out goods immediately to this place for that purpose. It will, at the same time be the means of supplying the garrison with such necessities as may be wanted; and, I think, the other colonies, which are as greatly interested in the support of this place as Virginia, should neglect no means in their power to establish and maintain a strong garrison here. Our business, without this precaution, will be but half finished; while on the other hand, we shall obtain a firm and lasting peace with the Indians, if this end is once accomplished.

General Forbes is very assiduous in getting these matters settled upon a solid basis, and has great merit for the happy issue to which he has brought our affairs, infirm and worn down as he is.\* At present I have nothing further to add, but the strongest assurances of my being your Honor's most obedient and most humble servant.—*Sparks' Washington.*

\* General Forbes died a few weeks afterwards in Philadelphia.

#### LETTER FROM GENERAL WASHINGTON TO GOVERNOR FAUQUIER.

Camp at Port Duquesne, }  
28 November, 1758. }

Sir:—I have the pleasure to inform you, that Fort Duquesne, or rather the ground on which it stood, was

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

**VOL. XIV.—NO. 24. PHILADELPHIA, DECEMBER 13, 1834. NO. 362.**

## GOVERNOR'S MESSAGE.

*To the Senate and House of Representatives of the Commonwealth of Pennsylvania.*

Fellow Citizens:—To communicate information of the state of the Commonwealth to those to whom the people have delegated the business of legislation, at the commencement of their session, is an executive duty not less grateful than it is imperative; especially, when the actual condition of the State presents an aspect so truly prosperous as that which, in our own, is every where conspicuous. The season which we have just passed, has been distinguished for its general health, its liberal harvests, and for the general (I regret that I am not at liberty to say the universal) peace and tranquility that prevailed. In every part of our flourishing Commonwealth, the hand of a beneficent Providence may be traced, dispensing its never-failing blessings in rich profusion to all, and bountifully scattering its abundance over, it is sincerely hoped, a grateful land.

In our national relations we have been no less favoured. A prosperity, as universal as it must be gratifying and acceptable to all, pervades every portion of our extensive Union, and sheds the blessings of contentment, independence and plenty, over an industrious, enterprising and intelligent people. Abounding in every thing that can promote the comfort, increase the wealth, and ensure the happiness of a people; at peace with all the world, and in the enjoyment of a government which affords us security and protection in all our rights, as individuals and as a nation, at home, and commands universal admiration and respect abroad—we should be wanting in justice to the free and happy country in which we live, its institutions and laws, and the protection and security they afford us, as well as in gratitude to the bountiful bestower of all the blessings we enjoy, should we utter the voice of complaint, or suffer the murmurings of unthankfulness to escape our lips.

In this pleasing picture of prosperity and comparative tranquility, the only cause for regret, tending to mar the brightness of the retrospect, which otherwise would have been most cheering, is to be found in certain tumultuous risings of the people in some of our Atlantic cities, entirely at variance with that peace-loving, orderly character, theretofore maintained by our citizens generally, and from which, I am sorry to say, our own proverbially staid and sober metropolis was not entirely exempt. In the progress of these riots many lives were endangered, and much valuable property was destroyed. The same lawless spirit extended itself, unhappily, also into one of the boroughs in the interior of the state, where similar outrages were committed. As such wanton, riotous doings, independently of their tendency to peril and endanger human life, and individual property, are degrading to the character of a people, and a blot upon the integrity of its civil institutions, it is submitted for legislative inquiry, whether the existing laws furnish a remedy sufficiently prompt and energetic for crushing such outrages upon the peace of society, in their inception, as the public safety requires; or whether further legislative provisions for strengthening the arm of the civil magistrate, and clothing him with

more ample powers to meet such emergencies with a promptness and energy suitable to the occasion, would not have a tendency to prevent, as well as to check such unjustifiable proceedings?

It is with feelings, also, of deep and unmingled regret, that I am constrained, by a sense of public duty, to bring to the view of the General Assembly an occurrence of a most melanoly nature, which took place in the city of Philadelphia, in the month of October last, on the day assigned by law for choosing inspectors of the general elections throughout the State, by which an amiable, unoffending, and highly estimable citizen was deprived of his life; having been wantonly and basely stabbed and wounded, with a deadly weapon, by some reckless assassin, who has hitherto escaped detection.

An outrage, of a character which ultimately proved no less fatal to another individual, also took place in the vicinity of the scene of murder above mentioned, on the day of the last general election, in the course of which the lives of a number of individuals were jeopardized, having been severely wounded with shot fired from muskets and other deadly weapons, and to which wanton outrage the death of the person alluded to is to be attributed. In retaliation for acts of violence so entirely indefensible, property of considerable value fell a prey to the fury of an incensed populace, whose feelings had become exasperated at the sight of the injuries inflicted upon their wounded friends. Whatever may have been the causes that led to such gross violations of law and order, it must be manifest to all, that such proceedings ought not to be tolerated in a government of laws, and in a country which boasts of its freedom—they are entirely incompatible with both. The subject is, therefore, brought to the notice of the General Assembly, as being the only department of the government possessing the power to provide an effectual remedy against a recurrence of such disgraceful scenes of lawless atrocity and unjustifiable violence.

The people have an undeniable right to be protected by their government, in the exercise of that invaluable privilege of freemen, the elective franchise, and no means should be left unassayed to secure to them that right in its broadest form, and to be exercised in a manner at once safe from violence; and entirely free from every species of restraint. A revision of the laws regulating the general elections within this Commonwealth, with a view to attain the objects alluded to, would, I doubt not, be attended with the happiest effects.

In pursuance of the act entitled "An Act to continue the improvement of the State by canals and rail roads," passed the fifth day of April last, authorizing the Governor to borrow, on the credit of the Commonwealth, the sum of two millions two hundred and sixty-five thousand four hundred dollars, a notice was prepared by the Secretary of the Commonwealth on the sixteenth of April, in the usual form, and published in newspapers printed at Harrisburg, Philadelphia, and New York, inviting proposals for six hundred thousand dollars, part of the loan authorized as aforesaid, to be forwarded to the Secretary's office until one o'clock P. M. of the fifth of June then next; and for the residuary sum of one million six hundred and sixty-five thousand four hundred dollars, until one o'clock in the afternoon of the tenth day of July then next. On the first mentioned of

which days the loan of six hundred thousand dollars was awarded to Elihu Chauncey, Esquire, of the city of Philadelphia, at his offer of one hundred and two dollars and fifty-eight cents in money for every one hundred dollars of stock; being fifty-seven cents more per hundred dollars of stock than any other offer received for that portion of said loan—and on the tenth day of July, the day assigned for that purpose, the residue of the said loan, being one million six hundred and sixty-five thousand four hundred dollars, was contracted for with the Bank of Pennsylvania at the price or sum of one hundred and five dollars and three cents in money for every one hundred dollars of stock: being one cent more per share of stock than any other offer received for that portion of the loan aforesaid. By these several transactions, the State will have realized in premiums upon the receipt of the 1st instalment of said loan, the sum of ninety-nine thousand two hundred and forty-nine dollars and sixty two cents.

Although this sum falls far short of the amount received in former years in the shape of premiums upon loans, still, taking into consideration the unfavorable circumstances existing at the time the loans were contracted for, the consequence of a groundless panic or dread, impressed upon the minds of capitalists, disinclining them to adventure upon a transaction of such magnitude, the terms upon which the loan was disposed of were quite as advantageous to the Commonwealth as could reasonably have been expected. It is proper here to remark that the temporary loan of three hundred thousand dollars authorized by act of the twenty-seventh day of January last, and which was negotiated with certain banks, was repaid to the several banks on the first of August, out of the proceeds of the permanent loan above mentioned, in pursuance of a resolution of the General Assembly, passed the fifteenth day of April last.

By an act of Assembly, entitled "An act to fix the standards and denominations of measures and weights in the Commonwealth of Pennsylvania," approved the fifteenth day of April last, it is made the duty of the Governor to procure for the use of the Commonwealth, within certain limited periods, positive standards of weights and measures: but no provision is made by the act, for defraying the expenses which must be incurred by a compliance with its directions. The propriety of appropriating a sum sufficient to carry the objects of the act into effect, to be drawn for as occasion may require, is respectfully suggested.

At the last sess on of the Legislature, an act was passed for establishing a general system of education by common schools, throughout the Commonwealth, in compliance with a constitutional provision, which, until then, although not entirely disregarded, had never been carried into effect in the manner intended by the members of the convention, to whose sagacity and profound political wisdom we are indebted for the present excellent constitution of our State. The act referred to was prepared, by those to whom the arrangement of its details was committed, under many embarrassing and discouraging circumstances, and there would be no great cause for astonishment if it should be found to be not entirely perfect. The subject was new in Pennsylvania; the path to be trodden had never been explored; a former attempt to introduce the system had failed; and the question how far public opinion would go in sustaining such a project could not then be distinctly ascertained. Petitions containing the names of many respectable individuals in different parts of the State, in favor of such a measure, had, however, been presented during the last and preceding sessions of the Legislature, and there was reason to believe that a strong desire was manifesting itself in favor of the adoption of some system that would have a tendency to give life and vigor to the cause of education throughout the State. By great industry, assiduity and perseverance, a mass of valuable information was obtained, which

unfolded a fund of knowledge in relation to the advantages, the utility, the cheapness—in short, the decided preference which a system of common schools, of general interest, and sustained and encouraged by the public bounty, maintained over every other plan of education of a private or partial character. From a careful examination of the information thus collected, from every part of the Union in which the experiment of general education had been made, the principles of the bill alluded to were extracted and framed into a law, having passed both branches of the legislature, with a unanimity rarely equalled, perhaps never surpassed in the annals of legislation.

The provisions of this act have, it is understood, been adopted by all the school districts in some counties, partially in others, and in a few they have been rejected altogether. This, it is understood, was the case in some of our sister States, in the commencement of the system there; and it was to be expected in the inception of the system here. Every new measure, although it may have for its object to confer the most solid advantages upon the community in which it is to operate, is destined, for the most part, to encounter long-cherished, inveterate prejudices, which it will be difficult to conquer, unless the most incontestible demonstrations can be given of its title to preference, on the score of unquestionable public utility, over that which it is intended to supplant. This act is said to be defective in its details; it probably is so; some of its provisions might possibly be improved by introducing salutary amendments. But as it will go partially into operation in the course of the coming year, its objectionable features will be developed by the practical experiments under it, and the remedies proper to be applied will present less difficulty after the defects will have been more distinctly ascertained. Such amendments as are obviously necessary to a more equal distribution of the public bounty or appropriation for the benefit of all the citizens of the State; to prevent the imposing of unequal burdens upon those who accept the provisions of the act, and such as do not; or that will be discovered to be in any respect necessary for giving effect to the system, the General Assembly will not fail, it is presumed, to discover and to introduce. Coming as you do from all parts of the State, you will naturally have brought with you a fund of information in relation to this important measure, which the Executive, whose opportunities for ascertaining public sentiment are more circumscribed, cannot be supposed to possess. It is exceedingly desirable that a system which is to exert an influence so universal and so all important, over the moral and intellectual character and condition of the people of this State, should not only be made as perfect as possible, but as acceptable and as agreeable as possible to those who are to be affected by it. That the system of education for which the act in question provides, is decidedly preferable, in every conceivable point of view, to that now in operation, no man who will give himself the trouble to draw a faithful comparison between the two, can for a moment hesitate about or doubt. If the act now under consideration goes into operation, the odious distinction between *rich and poor, wealth and indigence*, which has heretofore precluded the children of many indigent, though honest and respectable parents, from a participation in the advantages of education under the present system, will be exploded; and the poor man's child will be placed upon an equality with that of his wealthier neighbor, both in the school room, and when indulging in their necessary recreations.

Another decided advantage will be derived to fathers of families and others interested in educating children, from the provisions of this law; in the great diminution in the expense of tuition; whilst those who have no children to educate will be exposed to no increase of their taxes for education purposes, but in all probability will have them materially diminished as soon as the

system shall have gone fully into effect; but a further and still more important advantage than either of the other two, will result to the rising generation, upon which this law is more immediately to operate, from the more efficient manner of instruction, and the great disparity in the learning, the character and competency of many of the present teachers, and those to be employed hereafter. The want of these advantages constitutes the great defect in the system now in operation in Pennsylvania.

This may be emphatically pronounced to be a measure belonging to the era of seven hundred and ninety, and not to that of eighteen hundred and thirty-four. To insist that it emanated either from the Executive or the Legislature, however desirable it might be to appropriate the proud distinction of being its projector, is an entire fallacy. Such a monument of imperishable fame was not reserved for the men of modern times—it belongs to the statesmen of by-gone days.—To the patriots who framed the constitution under which we live and under which we have been pre-eminently prosperous and happy, belongs the proud trophy—it is to them we are indebted for this wholesome measure—they inscribed it upon the sacred tablet of the constitution, as a lasting memorial of their determination, that universal education should form one of the pillars of the government; and as an abiding testimonial of the high value they attached to the dissemination of knowledge as a protection and safeguard to our free institutions: and we are admonished by the language of the matchless instrument which proceeded from their hands, *as by a voice from the grave*, that the solemn injunction which they engraving upon it, in behalf of education, must not be disregarded.

Having, on several occasions, taken the oath prescribed by law, for the Executive of the State, making it obligatory upon him, among other things, to support the constitution of the Commonwealth of Pennsylvania, I should have considered myself justly chargeable with inexcusable official delinquency, if, upon any proper occasion, I had omitted to urge upon the attention of the General Assembly, the propriety of carrying into effect a constitutional provision of no ordinary interest, which, after the lapse of more than forty years, remained, as it was on the day of the adoption of that instrument, to all practical purposes—a dead letter.

In my last annual message, I took occasion to introduce to the notice of the General Assembly the subject of corporations generally, and to suggest the propriety of restricting our legislation, in regard to conferring corporate powers, to such enterprises exclusively, as are of incontestible public utility; to the accomplishment of which individual capital and credit would be inadequate; and that it ought not to be extended to such branches of business as can be successfully carried on by individual exertion and individual means. The privilege of voting by proxy at elections for officers, and for deciding important measures connected with the management of such public bodies, was also alluded to as being incompatible with the spirit of our free institutions. My opinions in relation to these subjects have undergone no change, but on the contrary have been much strengthened since the promulgation of that document. It cannot be denied that every incorporation that is authorized, and every monopoly that is established, even for the most useful public purposes, is a deviation from that republican simplicity which the principles upon which our admirable form of government is predicated would seem to inculcate, and a virtual encroachment upon our liberties. By multiplying these formidable, irresponsible public bodies, we shall, in the process of time, raise up within the Commonwealth an aristocratic combination of powers, which will dictate its own laws, and put at defiance the government and the people. We have recently had a strong illustration of the power and dangerous tendency of such institutions, and it may be well to learn wisdom from expe-

rience. These observations have been suggested by a knowledge of the fact, that a morbid, restless solicitude, to produce a state of incautious legislation, tending to precipitate a system of legalized speculation upon the people of this Commonwealth, has, for some time past, but too conspicuously manifested itself in our legislative halls, in the shape of applications for the incorporation of monopolies, of various descriptions. A depraved, unsound spirit, evincing a vitiated anxiety for the establishment of banking institutions, and other corporations possessing exclusive privileges, seems to have marked the era in which we live, as one peculiarly distinguished for its inveterate oppugnancy to the tardy but certain method of securing competency and independence, pursued by the men of other days, as well as for its peculiar predilections in favour of some shorter and less difficult path, by which to arrive at wealth and power.

To encourage this spirit any further, at this time, would be as unwise as our too liberal legislation in sustaining it heretofore was impolitic and injudicious.—Public opinion seems to have set its seal of reprobation upon such a course—and instead of being favorable to a further extension of banking institutions, and their necessary concomitant, an increased paper circulation, its recent expression evinced a decided opposition to any measure connected with this subject, short of introducing into our circulating medium a due proportion of the metallic currency contemplated by the constitution of the United States. In order to accomplish an object so desirable, and to reform the circulation within our own State by contracting or reducing the amount of paper money now afloat, and substituting in its stead a more sound and permanent standard of value, it seems to be essential that the legislation of the State with regard to an increase of banking institutions, should be forthwith checked.

It cannot be doubted that an increase of Banks, whilst they would add nothing to the active capital of the country, would contribute largely to increase the already too redundant supply of bank paper, the value of much of which might well be questioned, should an immediate demand for converting it into specie be made and insisted on. Allow me also to suggest, for legislative consideration, another measure as a valuable auxiliary for introducing an increased circulation of the precious metals—I mean the propriety of extending the provisions of the act of Assembly entitled, “an act concerning small notes for the payment of money,” passed the twelfth day of April, one thousand eight hundred and twenty-eight, to all bank notes of a denomination less than ten dollars. By causing bank paper of a description under the sum mentioned, to be gradually withdrawn from circulation, the introduction of gold and silver coins in sufficient quantities to supply the vacuum thus produced, would immediately follow. A more stable, sound and permanent circulation, in which the public would have confidence, would be established; over issues would be prevented; the exportation of gold and silver would in a great measure cease; the working classes of the community would receive an equivalent for their labor in which they could confide; wild and ruinous speculation would receive a wholesome check; and fluctuations in the value of property, so detrimental to the prosperity of the country, would be less frequent.

A further safe guard, against the ruinous consequences, resulting to the community from excessive issues of bank paper, will be found in imposing wholesome restrictions upon those institutions, both in regard to their circulation and their credits or discounts, neither of which should be allowed to exceed a certain prescribed sum, over and above the amount of the capital stock of the institution, much reduced below that now allowed by law; and that portion of the excess of dividends over a certain per centage to be determined by the Legislature, upon the amount paid on each share

of stock, should be paid into the State Treasury, as an annual equivalent for the privileges conferred, to be applied to the education fund, or such other beneficial public purpose as the Legislature may from time to time direct. Such a course of legislation, it is believed would place our State institutions upon a basis at once solid and substantial; would quench the desire for an increase of banking privileges, and would go far to guard the community against the danger of those sudden expansions and contractions, which have heretofore so injuriously and ruinously affected all the great interests of the country, as well agricultural and manufacturing as commercial. There is no species of property that may, with a greater regard to justice, be resorted to for contributions to beneficial or useful public purposes, than that which is derived from the profits arising from the business transactions of moneyed institutions. Being endowed with privileges from which the rest of the community is excluded, it is but reasonable that a part of the bounty they have received to the exclusion of others, should be returned to the public in ease of the burdens which would otherwise have to be borne by their less fortunate neighbors. In introducing the measures recommended into our moneyed system, care must be taken, however, that it be done cautiously and gradually, and in a manner to enable those institutions to meet the change without the necessity of suddenly curtailing their business operations, or injuriously affecting the industry or the general prosperity of the country.

The fiscal relations of the Commonwealth for the year ending on the first day of November last, have been such as to enable the Treasury to meet the various demands upon it, notwithstanding the great diminution in the proceeds of some of the sources of revenue, and the heavy claims to which it was subjected by the liberal appropriations granted for local objects, during the last and preceding sessions of the Legislature, and which were called for within the last fiscal year.

The receipts into the Treasury for the year ending as above, including the balance remaining therein on the first of November, eighteen hundred and thirty-three, amounted to the sum of one million six hundred and fourteen thousand eight hundred and sixteen dollars and ninety-one cents; and the expenditures during the same period, were one million five hundred and sixty thousand seven hundred and twenty-four dollars and seventy-one cents, leaving a balance in the Treasury on the first of November last, of fifty-four thousand and ninety-two dollars and twenty cents; of which balance, however, the sum of fifty thousand dollars was due to the internal improvement fund, from which it had been borrowed for the purpose of meeting the payment of interest on the first of August last, in pursuance of the act of fifteenth April last—leaving a net balance therefore in the Treasury, at the end of the fiscal year, of four thousand and ninety-two dollars and twenty cents.

The great disparity between the balance remaining in the Treasury at the end of the present and those of former years, is to be ascribed, in part, to causes which are beyond the possibility of control, and partly to causes which are exclusively within the power and control of the Legislature. An unexpected diminution in the revenues arising from lands, auction duties, collateral inheritance tax and some other sources of revenue, constitutes the first class of causes: and a drain upon the Treasury, authorized by large appropriations of money for numerous local objects, already alluded to, forms the second—the sums appropriated and paid at the Treasury during the fiscal year amounting in the aggregate to two hundred and thirty thousand and three hundred and thirty-one dollars and thirty-eight cents. The day is not far distant, when the finances of the State will justify a liberal appropriation of money for useful local objects of every description; but it is respectfully submitted whether; under the existing state of the revenue of the Commonwealth, sound policy does not re-

quire that there should be a prudent forbearance, in that respect, for the present; and until the revenues about to be derived from other sources than those now relied on, will justify greater liberality in our expenditures.

I would take occasion here to remark, that there is no officer either in the city and county of Philadelphia, or in any of the counties of the State, whose immediate duty is to attend or to enforce the payment of the tax upon collateral inheritances, which in many cases is entirely evaded—and it is understood that there is great remissness and a want of correct knowledge necessary to the just and equitable assessment and apportionment of the duties upon licenses of wholesale dealers and retailers of foreign merchandise, and other sources of revenue, and that there are many thousands of dollars lost to the State annually, in the city and county of Philadelphia, alone, which the vigilance of an active officer appointed for the purpose would secure and bring into the Treasury. To remedy this effect therefore, in the collection of this portion of the public revenue, allow me to recommend that the Attorney General and his deputies, in the city and county of Philadelphia and the several counties throughout the State, be invested with the authority necessary for compelling executors and administrators, in all cases in which the estates of their decedents are subject to the payment of the tax upon collateral inheritances, to render and settle their accounts, and to pay over the amount of tax due to the Commonwealth from such estates, at the times and in the manner prescribed by law; and to be authorized to aid in the apportionment and to enforce the collection also, of such other branches of the public revenue as may claim their attention—receiving as a compensation for their services, such reasonable percentage upon the sums by them collected, as may be considered to be just—or that such other measures may be adopted to accomplish the object, as the General Assembly may in their wisdom deem expedient and proper. It is believed that a strict attention to the collection of the revenues to which the Commonwealth is entitled, together with the accession from new sources, and a careful husbanding of the whole, will enable the State to meet all its ordinary engagements, and that the necessity for continuing in force the act entitled “An act to increase the county rates and levies for the use of the Commonwealth,” passed the twenty-fifth day of March, eighteen hundred and thirty-one, and which will expire by its own limitation on the twenty-fifth day of March, one thousand eight hundred and thirty-six, may then be dispensed with.

I have the satisfaction to announce to the General Assembly that our public works, in the construction of which the State has been engaged for the last eight years, have been so far completed as to admit of transportation throughout their whole extent, except the second tract of the rail road across the Allegheny mountain, which, it is understood, will be finished in time for the opening of the navigation in the spring. Upon some of the other lines there are still minor jobs remaining unfinished, but which are rapidly progressing towards completion. For all practical purposes of transportation, however, all the lines may be said to be finished, with the single exception mentioned.

The State has now seven hundred and twenty miles of public improvements, which in point of extent, execution and prospective usefulness, may challenge a comparison with any other structure known to modern times. Of these improvements, six hundred and one miles and a quarter consist of canals and slack water navigation, and one hundred and eighteen miles and three-quarters are rail ways. The whole of these public works are so located as to penetrate those sections of the Commonwealth which, from their known fertility and mineral wealth, gave the greatest promise of a successful commerce with the great Eastern and Western emporiums of the State; and more, perhaps, than any

other sections, required those facilities which would have a tendency more effectually to develop their abundant, and in a measure still latent, resources, and for transporting them to market, which these great State improvements were alone calculated to furnish.

The whole cost of construction which the Commonwealth will have incurred, when all her lines of improvement, now about to be completed, shall have been entirely finished, including the sum which will be required for that purpose for the current year, will amount to the sum of twenty-two millions one hundred and fourteen thousand nine hundred and fifteen dollars and forty-one cents. This sum will doubtless sound large to such as are unacquainted with the character of the improvements, their design, extent, and great public importance; but when these are scanned and understood, and when it is known that these expensive works were constructed by the State in her own defence, to preserve her commerce from the grasp of powerful rival neighbors, and that her great chain of internal improvements has added, and will continue to add, incalculable millions to her present wealth and resources, the marvel will cease.

Upon most of the loans negotiated for the construction of the public works, the State received premiums to an amount, in the main, sufficient, in connection with the other revenues set apart for that purpose, to meet the payment of interest upon the whole amount of the State debt, at the respective periods when the same became due. The increase of tolls upon the public works will, it is not doubted, supply the place of premiums hereafter; and it is confidently believed that the people of no State in the Union, in which public works have been constructed at the public expense, have been less burdened with the payment of taxes in proportion to the extent and magnitude of the respective improvements, than the people of this State have been. And such are the flattering prospects in regard to the future revenues which the Pennsylvania canal and rail roads will produce, that it is more than probable, as I have before stated, that after the twenty-fifth of March, eighteen hundred and thirty-six, taxation for these objects will not be required.

The amount of tolls received on all the public improvements during the fiscal year ending on the first of November last, was three hundred and nine thousand seven hundred and eighty-nine dollars and fifteen cents—there were however in the hands of the collectors before the close of the year, but which did not reach the Treasury until after the accounts for the year had been closed by that department, tolls amounting to thirteen thousand seven hundred and forty five dollars and ninety-three cents, which added to the sum first mentioned, will make the amount actually received within the year, three hundred and twenty-three thousand five hundred and thirty five dollars and eight cents. This sum falls considerably short of the estimate made at the close of the preceding fiscal year, and yet, considering the adverse circumstances which existed at the opening of the navigation in the spring, and the uncontrollable natural impediments which occurred in the summer and part of the fall, the receipts of tolls were quite as large as could have been expected. The operating causes which reduced their amount below the estimate of five hundred thousand dollars were, a want of preparation, at the commencement of the spring transportation, on the part of the owners of transportation lines, in not having provided a sufficient number of cars upon the Portage rail road, nor an adequate number of boats upon the Western division of the canal, for conveying the merchandise and produce along the several lines to their respective places of destination.—The delays consequent upon this state of unpreparedness, occasioned large quantities of merchandise to be sent to the west through other channels which would in preference, under other circumstances, have sought a conveyance upon the Pennsylvania improvements. A

drought in the west, of unexampled duration, reduced and continued the water of the Ohio river so low as to prevent western produce from reaching Pittsburg by the steam boats; thus depriving the transporters, upon the Pennsylvania lines of improvement, for a long time, of full cargoes to be carried to the eastern markets.—Other causes may have contributed to diminish the amount of tolls, but those mentioned, it is believed, operated more powerfully than any other in producing that result.

A recurrence of such unpropitious circumstances cannot happen hereafter, at least so far as those engaged in the carrying trade upon the State improvements are concerned. It is understood that the owners of the several transportation lines of boats and cars, are making ample preparation for commencing and carrying on an active and extensive business during the next season; and as the public works will all then be in a condition for conveying all the merchandise and produce that may offer to their respective places of destination, and the public confidence in the stability and safety of that mode of conveyance will have become more confirmed and settled, the tolls to be received from the several improvements during the current year, may, it is believed, be safely estimated at double the amount of those received in the last fiscal year, which will be about six hundred and fifty thousand dollars. A higher estimate has however been made by the accounting officers upon data which in their opinion may be relied on.

For the amount of expenditures in relation to these works, and the details generally as connected with them, you are respectfully referred to the report of the Board of Canal Commissioners and the documents accompanying the same.

The great chain of valuable public works which may now be said to be consummated, and which every friend of Pennsylvania's true interests will contemplate with an honest glow of patriotic pride and pleasure, was for a long time considered of doubtful experiment, both in regard to its practicability and its ultimate success; and its eventual completion may well be regarded as a strong exemplification of the unlimited extent to which the achievements of a patriotic, enterprising people, actuated by a spirit of virtuous emulation and jealous of its rights, may be carried. Had this line of intercommunication between our great commercial metropolis in the East and the head of steam boat navigation in the West never been completed, this powerful State, instead of commanding as she now does, and forever hereafter must do, a large and valuable portion of the western trade, by which her wealth and enterprise will be immeasurably increased, would even now have her commercial energies paralyzed and be doomed to stand by and with folded arms see not only the rich and endless commerce of the West lured by the channels of communication opened for it by her rival neighbors, to their great commercial emporiums, but even that of a large portion of her own territory would have passed out of her own limits, by the same medium of conveyance, to the same places of destination.

The accomplishment of this portion of her great system of canals and rail roads, has, however, placed our State so firmly on the vantage ground, in respect to the commerce of the West, and will have so effectually secured the whole of her own, that it will be no easy task to supplant her hereafter in regard to either. And having gained this great and all important object, if it were possible that she should even be prevented from realizing a single dollar in the shape of tolls from her improvements, her true interests would nevertheless have been advanced to an extent immeasurably beyond their cost. But independently of the great advantage just mentioned, the inexhaustible stores of wealth which have hitherto lain dormant, and which her public works are destined to unlock; the increased value they will impart to every description of property

throughout their whole extent; and the incalculable accumulation of tolls they will inevitably produce, will not fail to make Pennsylvania, as the God of Nature seems to have intended she should be, the first State in this great confederacy.

I cannot dismiss this subject without bringing to the view of the General Assembly, the claims of the people of the north and the north-western portions of the State. They urge, and with reason, their title to a share of the public liberality in the construction of public works; they allege, what is most certainly true, that they have manfully stood by the system of internal improvement from its inception to the consummation of that portion of it which is now completed, and have given it aid and encouragement; that they have borne their share of the public burden, and contributed their money for its accomplishment, in the shape of taxes; they aver that the system, as originally designed, will not be completed until a connection shall have been formed with the Elmira canal, in the State of New York, by an improvement along the North Branch of the Susquehanna; nor until the waters of Lake Erie are made to intermingle with those of the Allegheny and the Delaware, by opening a communication by some eligible route to be fixed upon for connecting the Harbor of Erie with the Allegheny river at Pittsburgh.— That the claims of these citizens are strong, is undeniable; that the system as originally designed was intended to embrace at least one of those points, if not both, is not doubted; that they have stood by and borne their share of the heat and burden of the day, in that which has been accomplished, it is but sheer justice to them to say; that the true policy of the State as well as the justice of the claims preferred, favour the project of carrying the system to its consummation, at no distant day, will scarcely admit of a doubt. The claims are respectfully submitted; the time, the manner and the means are subjects worthy of profound Legislative deliberation: and the state of the public finances as connected with immediate operations, must form a distinguished feature in the decision of the General Assembly upon these important measures. It is but just that, in connection with the subjects adverted to, I should mention the contemplated connection of the Ohio canal with the Pennsylvania improvements, at some point to be designated by the legislature of that State. No decisive steps have, however, as yet been taken by the State of Ohio for carrying the contemplated measure into effect. Should a movement be made by her Legislature for authorizing the proposed connection, it seems to me the subject holds out advantages too important to be neglected, and which should induce immediate corresponding measures on the part of the General Assembly of this State. I would also mention, whilst upon the subject of our internal improvements, that upon the argument of a bill in equity filed in the Circuit Court of the United States for the Eastern district of Pennsylvania, praying an injunction to restrain certain superintendents and agents of the Board of Canal Commissioners from proceeding in the erection of a dam, digging a trench, and diverting and using the water of a stream of water on the land of the complainants, for the purpose of establishing water stations for supplying the locomotive and stationary engines upon the Philadelphia and Columbia rail road with the necessary quantity of water. The Court, although they admitted that taking the several acts of the last session, authorizing the purchase of locomotive engines, and the preservation of water stations, drains, &c. belonging to said road, in connection, their phraseology went far to show that it was the intention of the Legislature to authorize the making of the latter; yet they seemed to doubt whether such intention could be so made out as to convey the power to enter on private property and make a permanent appropriation of a water course for such a purpose.

As this question is intended to be brought before the

court shortly for final adjudication, I shall be excused I trust, for urging upon the immediate attention of the general assembly the necessity of removing all doubt upon this subject, by the passage of an act declaratory of the intention of the legislature to vest in the appropriate officers of the commonwealth the necessary powers for carrying into effect the contemplated improvement, and for using all the appropriate means for rendering it available for the purposes for which it was originally designed. It is proper to mention, at the same time, that the discussion of the question alluded to has elicited a fact which theretofore had escaped observation, namely, that there is not either in the several acts referred to, nor in any of the preceding acts passed for the improvement of the state by canals and rail roads, any express provision made for authorizing the appropriation of the property of individuals for their location or that of their necessary appendages, or for taking the materials and other requisites indispensable for their construction, and for making them usefully operative when completed. Nor is there any direct or express authority contained in either of those acts, for making compensation for private property thus taken for public use, although from their phraseology all those powers are abundantly implied.

In order therefore that the several powers and authorities intended to be conferred by law upon the agents of the commonwealth in the particulars referred to, may be stripped of all difficulty and doubt for the future, allow me respectfully to recommend that they be severally incorporated in express terms, among the provisions to be contained in the declaratory act, the early passage of which has just been urged upon your consideration.

It is ardently desired by a large portion of our fellow citizens that a thorough revision of the present militia system should take place. This measure is one of the first impression and will not be overlooked by a vigilant legislature. The views expressed in the last annual message, with regard to that important arm of our national defence, are still entertained, and the opinion that to make the system effective, legislation in regard to it must commence in congress, is confirmed by the action of the legislatures of several of our sister states in calling the attention of that body to it.

Resolutions adopted by the general assembly, directing the attention of our senators and representatives in congress to the subject, might have a tendency to quicken the action of that body in relation to it. The resolutions might be so framed as to urge upon the legislatures of the other states of the Union, the propriety of adopting similar measures, with a view to the more speedy and effectual accomplishment of the object.

A letter has been received from the Honorable William Watkins, late a senator in congress, resigning his seat in that body. The attention of the general assembly is respectfully invited to the subject, in order that the vacancy may be filled at as early a period as practicable, congress being now in session and a full representation of the state, in that body, desirable.

A further report by the commissioners appointed to revise the civil code may be expected shortly. The gentlemen engaged in that arduous work are laboring assiduously to bring it to a close. The undertaking is one requiring much investigation, deep reflection and great care in the compilation and arrangement of the subject matter, as well as the detail, necessary to enter into a code of laws for regulating the civil relations of a community so numerous and diffuse as ours; and it may become necessary to grant a further extension of the time allotted to them, in order to enable them to complete a work which they have been prosecuting with so much ability, and, I may add, with so much advantage to the public. Several of the bills reported by the commissioners have not received the legislative sanction, but remain among the unfinished business of

the last session. Some of those bills would, it is understood, if enacted into laws, be of primary importance, and especially that relating to the inspection of produce of various descriptions, as it would have an important bearing upon the western trade seeking transportation upon our canals and rail roads, and consequently upon the amount of tolls to be derived from them.

An agreement has been concluded and signed by the commissioners appointed on the part of this State and the State of New Jersey, in relation to the use of the waters of the Delaware river, which will require the sanction of the legislatures of the respective States to render it effectual.

The report of the commissioners will be laid before you shortly, together with the agreement. From the high character of the gentlemen entrusted with this negotiation, for intelligence and capacity, we may reasonably anticipate that such an arrangement has been made, as will be entirely satisfactory to the people of both States, by effectually securing the rights of each.

The arrangements of the districts for holding terms of the Supreme court, made at the last session of the Legislature, and the entire abolition of the Circuit courts, seem to have met the approbation generally of those connected with the administration of justice.—The change is believed to have operated a great relief to the Judges of that court, by ridding them of an exceedingly oppressive weight of judicial labor; while it has placed them in a condition to put an end to the complaints of "the law's delay," and enabled them to despatch the public business with promptness, and with more satisfaction to themselves, as well as to those who are to be affected by their decisions. Several bills, I understand, will be laid before you at an early period of your session, by the commissioners appointed to revise the civil code, relative to the courts, their jurisdiction and powers, and the administration of justice generally, which will doubtless receive the attention of the General Assembly, during the present session. I am not aware that any important change in the organization of the courts of Common Pleas is desired at this time.

By an act approved the 27th February, one thousand eight hundred and thirty-three, one hundred and thirty thousand dollars were appropriated for completing the Eastern, and sixty thousand dollars for effecting certain alterations in the Western Penitentiary, which latter sum was increased by an additional appropriation of twenty thousand dollars by the act of the fifteenth of April of the present year. These several sums have been expended in prosecuting the work they were designed to accomplish, and in the Eastern Penitentiary the cells, directed by the legislature to be built, have been erected and permanently covered in. A considerable portion of the work, however, still remains unfinished, and the whole will not be completed before mid-summer of the ensuing year. For the entire completion of the work, an additional appropriation will be required. In this institution there were confined on the first of January of the present year, one hundred and fifty male and two female prisoners, and between that period and the first of November following, eighty-four male convicts were received into, and twenty-four males and one female were discharged from the penitentiary, by expiration of sentence, eight were pardoned and five died—leaving in the establishment at the date last mentioned; two hundred criminals convicted of various offences, of which one hundred and ninety-nine are males and one female. In the Western establishment, a block consisting of one hundred and four cells, which had been commenced in the spring of eighteen hundred and thirty-three is now completed; the observatory and apartments connected with the same are also nearly finished. Another block of seventy-six cells is rapidly progressing towards completion. A variety of other works, consisting of flag stone floors,

gallery, &c. are in progress and will soon be finished. Such alterations, it is understood, have been made in this building and the arrangement of the cells, as to have enabled those entrusted with the government of the institution to put the system of solitary confinement and solitary labor partially into operation. A report was made by the architect to the board of inspectors, showing the alterations, the improvement of the material and form of construction of the cells, the progress of the work, &c. together with an estimate of the sums necessary for its partial completion and the completion of the structure to the whole extent of its original design, copies of which have been forwarded to the Executive and will be laid before you.

In this prison there were, at the commencement of the present year, one hundred and four convicts; between that period and the twenty-first of November, there were received into it forty-three; discharged from it fifty-three, and three died—leaving at the last mentioned date, ninety-one criminals convicted of various offences. Owing to sickness which prevailed to a considerable extent among the prisoners confined in the Western penitentiary, and which is ascribed in some measure to the dampness of the new cells, and the want of profitable employment for them during the season, the proceeds of their labor, which consisted for the most part of picking oakum, will fall short of the sum required for their support by about one half.

Preparations are now making to employ the convicts extensively in the manufacture of cotton goods, as soon as the prices of such manufactures will justify that measure; the business of shoe making will also be vigorously carried on, and it is intended that the prisoners shall all be so employed hereafter as to ensure sufficient earnings to defray the entire expense of their maintenance and support.

From communications received from the intelligent wardens of both these extensive punitive structures, it is manifest that the system of solitary confinement with labor, obviates the necessity of inflicting rigorous corporal punishment of any kind; neither the lash nor fetters nor chains are necessary for subduing the most hardened convict; the chances of escape are greatly diminished; and the discipline of the penitentiary, as now practised, carries greater terror into the ranks of evil doers than any other heretofore devised. It is believed, by those whose opportunities of judging, entitle their opinions to respect, that the dread of this kind of punishment has in some measure prevented the commission of crime in the Western district; the number of convicts received into that prison during the present, being much less than that of those received in the preceding year.

Such has been the growing confidence in the superiority of this system over that of any other, within the range of criminal jurisprudence, that several of our sister states are constructing penitentiaries for their respective states upon the Pennsylvania plan, and others are about to follow their example. These establishments should as soon as possible be put in a condition to answer the end designed—the reformation of the convict, and his restoration to the bosom of that society whose peace he has disturbed, and against whose laws he has offended: Whether the general assembly will authorize the completion of the whole of the work at this time, or to what extent, will be for them to say.—Should the appropriations be made however, it will be necessary to provide a fund to meet them, other than those now provided and relied on to meet the ordinary demands upon the treasury.

I have exhibited very briefly, but imperfectly, the advantages which the present penitentiary system as practiced in Pennsylvania possesses over every other known to the criminal code, as well for subduing the refractory spirit of the convict, as for his reformation and the prevention of crime, and have to regret that I am constrained by a deep sense of paramount public

duty, to communicate to the General Assembly the unpleasant information, received from a high official source, of abuses charged by individuals as existing in the economy and general management of the institution denominated "The Eastern Penitentiary," which, for the honor of those implicated, it is sincerely hoped may turn out to be unfounded. The charges alleged may be comprehended under the following summary.—Frequent misapplication of the public property and public labor to the private advantage of various persons connected with the institution; cruel and unusual punishments inflicted on refractory convicts; and the indulgence in great irregularities and gross immoralities on the part of those concerned in the management and general superintendence of the institution. It is due no less to the reputation of those implicated in the charges which have been thus presented, than to the character of the institution itself, that an immediate inquiry should be instituted into the truth or falsity of the several allegations, in order that a speedy corrective may be applied if true, or that the innocence of the accused may be made to appear, if false. Believing that the representatives of the people are the rightful guardians of these institutions, and the legal and constitutional protectors of the rights of their unfortunate inmates, I have considered it my duty to bring the subject to their notice, under a firm conviction that it will receive from them that consideration and attention which its importance requires.

All the duties devolving upon the Executive under acts or resolutions of the General Assembly, requiring immediate attention, have been promptly performed.

In conclusion, permit me to congratulate you upon the favorable auspices under which you are about to commence your legislative duties; the prosperous and happy condition of our country generally and of our own Commonwealth more especially; the improvements which are every where exhibiting themselves, as well in science and in the arts, as in the physical relations of the country; the steady advancement of our agriculture, commerce and manufactures, to a state ensuring to those engaged in them, competency and independence; the manifest diminution of vice; the perceptible growth of virtue, and the visible increase of a wholesome public morality. Permit me to assure you of a hearty concurrence in every constitutional measure tending to the public good; and may He who is the fountain of all wisdom, guide and direct your deliberations, and lead you to the adoption of such measures as will ensure the general welfare.

GEO: WOLF.

HARRISBURG, Dec. 3, 1834.

## REPORT OF THE CANAL COMMISSIONERS.

Annual Report of the Canal Commissioners of Pennsylvania, made to the Governor, December 2, 1834.

CANAL COMMISSIONERS' ROOM,  
December 2, 1834. }

His Excellency GEORGE WOLF,  
Governor of Pennsylvania.

Sir—By order of the Board of Canal Commissioners, I have the honor of transmitting to you their annual report, for the year ending the first November last, and accompanying documents.

JAMES CLARKE, President.

The Canal Commissioners respectfully submit their Annual Report:

On the fourth day of July, one thousand eight hundred and twenty-six, a little more than eight years ago, the State of Pennsylvania commenced her great system of internal improvements by breaking ground on the canal, near her capitol at Harrisburg, and notwithstanding the formidable difficulties and embarrassments incident to the prosecution of a work, which, for ex-

tent, magnitude and utility, stands unrivalled in modern times, the Canal Commissioners have the satisfaction of announcing to their fellow citizens, that all the lines of canal and rail way authorized by law, are so far completed as to admit of transportation throughout their whole extent.

Although the canals and rail ways are now in a condition to accommodate the present trade, there is yet some work under contract and in progress on several of the lines requiring to be finished to render them complete. The most important work remaining unfinished, is the second track on the Portage rail way; this, however, is progressing with such rapidity as to ensure its completion before the opening of the canal next spring.

The navigation on the Susquehanna and the North and West Branch divisions remained open until about the 12th of December last. On the Juniata and Western divisions until about the 20th, and on the Eastern and Delaware divisions, until the 1st of January. But as the Union canal closed about the middle of December, little or no business was done after that period on the Pennsylvania canal, west of Portsmouth.

The several lines of canal opened for transportation in the following order:

The Delaware division,	60 miles,	1st March, 1834.
Eastern do.	45 "	1st "
Juniata, from Duncan's Island to Aughwick,	69 "	1st "
Western division, from the head of the pool of dam No. 1, to Pittsburg,	41 "	4th "
Juniata division, from Aughwick to Frankstown,	56 "	6th "
Western division, from Johnstown to the pool of dam No. 1,	63 "	10th "
Susquehanna and West Branch divisions,	65 "	10th "
Juniata division from Frankstown to Hollidaysburg,	2 "	12th "
North Branch division,	59 "	23d "
French creek division,	22 "	30th "
Beaver division,	24 "	28th May "
Wyoming line,	13 "	4th July "

And the rail ways were opened and in use as follows:

Columbia line, from the head of the Schuylkill inclined plane to the intersection of the West Chester rail way, eighteen miles of double track, in use throughout the year.

Do. do. from the head of the plane to the intersection of Vine and Broad streets, in the city of Philadelphia, four miles of double track, opened on the 25th day of December last, and has been in use since.

Portage, whole distance, thirty-six miles of single track, opened on the 18th of March.

And an entire line of communication throughout the Schuylkill and Union canals, and the Pennsylvania improvements, has been kept up between Philadelphia and Pittsburg since that time.

Columbia line, from the intersection of the West Chester rail way to the borough of Columbia, sixty miles of single track, in use from 16th April.

Do. do. same distance, second track, in use from October 7th.

It will be seen by the foregoing, that the main line of canal was opened between the 1st and 12th of March, and that a single track on the Portage rail way was opened for public use on the 18th; but as those

engaged in the transportation were not prepared to take advantage of the first opening of the line, in the early part of the season an immense amount of merchandize, destined for the west, accumulated in the warehouses at Philadelphia, Harrisburg and Hollidaysburg, and was prevented from reaching Pittsburg in due time, owing principally to the want of the requisite number of cars on the Portage and boats on the Western division. The delays thus produced, proved a source of disappointment and vexation to the merchants, which, together with the lack of correct information on the part of persons at a distance, respecting the facilities afforded by the new improvements, as well as a want of confidence of others in their stability, occasioned much of the spring trade that ought to have been carried on the Pennsylvania lines, to seek other channels.

A portion of the trade being thus diverted, and in the mean time the transporters having obtained a supply of boats and cars which enabled them to carry all the freight that offered, merchandize at one time was carried from Philadelphia to Pittsburg in eight days, for one dollar, per hundred pounds; and while the Ohio river continued in good navigable order, it was transported from Philadelphia to Cincinnati in twelve days, for one dollar and thirty cents, per one hundred pounds. Cotton was carried from the State of Tennessee to Philadelphia, on the Ohio river and Pennsylvania canals, for one dollar twelve and a half cents, per one hundred pounds. Flour also was transported from Pittsburg to Philadelphia, for one dollar twelve and a half cents per barrel. The transportation of western produce was brisk in the spring, but limited the rest of the season, owing to a long continued drought in the west, which prevented steam boats plying on the Ohio from reaching Pittsburg; consequently, the transporters upon the Pennsylvania improvements were unable, for several months, to obtain full cargoes on their eastern bound voyages. This fact demonstrates the propriety of an appropriation by Congress, (Pittsburg being a port of entry,) for the improvement of the navigation of the river Ohio.

Besides the cause which have already been assigned as tending to retard the trade on the public canals and rail ways, and diminish the amount anticipated, the derangement of the monied concerns of the United States last winter and spring, had a serious effect.—Merchants and traders acted with extreme caution, and limited their business within a compass dictated by prudence.

The old part of the Nanticoke dam was carried away last spring. By the erection of a coffer dam, the navigation was kept up, subject to occasional interruptions, until the completion of the new dam.

A few breaches in the banks on some of the lines have occurred during the season, principally from defects in the original construction of the canal; but in most instances, they were of small extent, and always promptly repaired. The Eastern division, between Portsmouth and Columbia, was not in use for about five or six weeks, for want of a sufficient supply of water. A like occurrence, from the same cause, cannot in future take place, as a feeder from the Swatara creek, to supply the deficiency, is now in a course of construction. On the Eastern and Susquehanna divisions there was a deficiency of water for boats with heavy loads for a few days, and on the Western division the same thing took place occasionally; with these exceptions, the canal has been kept in excellent condition, so that there has been but little interruption of the trade during this season. It is especially a gratifying fact, that throughout the whole extent of the main line, west of the Union canal, from the time it was filled with water in the spring, no serious accident has occurred to interrupt the navigation, or mar the arrangements and prospects of those engaged in transportation.

Innumerable and disheartening difficulties presented

themselves in the progress of the public improvements. But by the devoted zeal and untiring perseverance of the agents employed by the board in the construction and care of the several lines, as well as from the steady support which the system has received from enlightened public opinion, those formidable obstacles have not only been encountered, but successfully overcome; and the period has arrived, when the Canal Commissioners can say to their fellow citizens of this Commonwealth—*"The six hundred miles of canal and one hundred and twenty miles of rail road which you directed us to have constructed, are now ready for use."* Nor have these great works been constructed in vain. The trade upon them during the present season has been auspicious, and cannot fail to be highly gratifying to every Pennsylvanian who feels a laudable pride in the growing prosperity of his own State.

The amount of toll collected and paid into the State Treasury within the fiscal year, ending on the 31st of October, 1834, is

\$309,789 15

To which should be added the toll received by collectors subsequently to their last remittance, but which did not reach the Treasury until after the accounts of the year were closed by that department,

13,745 93

Whole amount of toll collected within the year,\*

\$323,535 08

That the public may have a standard of comparison between the progressive increase in the tolls derived from the public works of Pennsylvania, and the tolls received on the New York canals, whereby an estimate can be made of the probable amount which may reasonably be expected hereafter, the following table is inserted.

Comparative statement of toll received on the New York and Pennsylvania improvements.

Pennsylvania.		New York.	
Years.	Amount.	Years.	Amount.
1830	27,012 90	1820	5,437 34
1831	38,241 20	1821	14,388 47
1832	50,909 37	1822	64,072 40
1833	151,419 69	1823	152,958 33
1834	323,535 03	1824	340,761 07
		1825	566,112 97
		1826	762,003 60
		1827	859,058 48
		1828	838,444 65
		1829	813,137 45
		1830	1,056,922 12
		1831	1,223,801 98
		1832	1,229,483 47
		1833	1,463,715 22

It may be proper here to remark, that New York began on the easiest made portions of her canals and finished them progressively, hence her improvements became more immediately productive in proportion to

\* From the first to the twenty-ninth November of the present fiscal year, the collectors on the Pennsylvania improvements have received \$42,329 42.

Which added to the amount in the annexed table, makes the sum received in the first five years,

\$633,447 86

The amount received the first five years on the New York canals, (their reports closed on the 1st January,) is

\$577,617 61

Balance for the first five years in favor of the Pennsylvania improvements,

\$55,830 25

To which should be added, to make the comparison complete, the amount of tolls which will be collected in Pennsylvania in the month of December.

the expenditure, than those of Pennsylvania, as the improvements of the latter were commenced in detached sections, unconnected with each other, which prevented the parts first finished from becoming useful or productive until the completion of the intermediate portions.

Last year, New York had about five hundred miles of canal in use, on which she took toll to the amount of one million, four hundred and sixty-three thousand seven hundred and fifteen dollars and twenty-two cents, equal to two thousand nine hundred and twenty-seven dollars and forty three cents per mile. At this rate the seven hundred and twenty miles of canal and rail way, belonging to this State, will, in a few years, yield two million, one hundred and seven thousand, seven hundred and forty-nine dollars and sixty cents per annum, which sum there is every reason to believe, will be realized in less time than it has taken our sister state to arrive at the amount of tolls received by her, last year.

The opinion of the board, as to this favorable result, is founded upon the following facts.

1st. The canals in Pennsylvania can be navigated five weeks earlier in the spring, and three weeks later in the fall than those of New York, and the Columbia rail way can be used throughout the year.

2d. The central and commercial position which Pennsylvania occupies in the Union.

3d. The command she has of the Ohio river, the great channel of communication with the empire of the West. And

4th. The advantages she will have over New York, in tonnage arising from her inexhaustible beds of coal and mines of iron.

The following table shows the number of boats cleared and the distance travelled by the passengers on the public improvements for the last three years:

Years.	No. of boats cleared.	No. of miles travelled by passengers.
1832	5,000	152,788
1833	12,529	878,315
1834	18,797	4,085,191

There have been six hundred and sixty-four boats on the canal, and three hundred and forty-nine cars on the rail way, regularly registered, of which one hundred and two cars are on the Columbia rail way, and two hundred and forty seven cars on the Portage. Imposing as this number of boats and cars may appear, they are not sufficient for the trade expected to be done next year.—But to meet the increasing trade, the transporters now engaged in the carrying business, are making preparations to double their present means of conveyance.—Besides, there will be added several new lines of packet and freight boats, which are now constructing. With a knowledge of these facts, there can be no hazard in concluding that the tolls of 1835, will more than double the amount received in 1834.

For the purpose of securing to the community the longest period of navigation, orders have been issued to the supervisors to keep the canal open, and if practicable, prevent its passage from being interrupted by ice until the first of January. They have also been directed to put their respective lines in the best possible order; have them filled with water and ready for the spring trade by the first of March. In ordinary seasons this can be accomplished.

#### *Columbia rail way.*

In conformity with the act of the 21st of March, 1831, the city of Philadelphia has constructed four tracks of rails from the termination of the Columbia rail way at the intersection of Vine and Broad streets, along the latter street to Cedar street. From this point a company has laid a single track of rails along Broad to Prime street, and thence down Prime and Washington streets through Southwark to the Delaware river, near the navy yard. Another rail road has also been con-

structed by a company from the Schuylkill near Fairmount, through Penn township and the Northern Liberties to the Delaware, intersecting and crossing the Columbia rail way near its termination. Thus, for practical purposes, the great chain of improvements may be said to commence at two points on the Delaware river, north and south of the limits of the city, but within the range of a dense population and an active business. At either place the cargoes of sea vessels may be transferred immediately into rail-road cars, or the contents of the cars into vessels, without any expense for drayage.

Starting from the Delaware and pursuing our course westwardly, on the rail way three miles west of the city, we reach the viaduct and road bridge across the Schuylkill. It is one thousand and eight feet in length, and was first opened for public use on the 25th day of December, 1833. Immediately west of the viaduct the Schuylkill inclined plane presents itself. It is two thousand eight hundred and five feet in length, with a rise of one hundred and eighty-seven feet. Cars are drawn up and let down upon it by a stationary steam engine of sixty horse power placed at the head of the plane. A lot of ground adjoining the building containing the stationary engine, has been purchased and there are now erecting on it an engine house for locomotives, machine shops and other buildings and fixtures necessary for the preservation and repair of engines belonging to the Commonwealth.

About twenty-two miles west of the city, the West Chester rail road, nine miles long, commences and diverges to the south-west, and six miles further west a branch of the same rail road is united to the Columbia rail way, from whence it diverges and runs a south-easterly course.

The Columbia inclined plane, near the borough of Columbia, in Lancaster county, is one thousand eight hundred feet in length, with an altitude of ninety feet. At its summit there is also a stationary engine of forty horse power. Suitable buildings, near the head of the plane, for locomotive engines, machine shops, &c. are now in progress, and will soon be finished.

From the west end of the twenty-two miles next Philadelphia to Columbia, being sixty miles long, a single track of rail way was opened for public use on the 16th day of April last, and the second track was also opened on the 7th day of October.

In compliance with the act of the 26th of March, 1832, the canal commissioners caused to be placed under contract the work necessary to form a connection between the main track of the Columbia rail way and the Columbia bridge. This work is in progress and nearly finished, and when the bridge company shall have laid rails on the bridge in conformity with the provisions of the said act, the connection between the main track at Columbia and Wrightsville in York county will be complete.

Immediately after the passage of the act of the 15th day of April last, authorizing the canal Commissioners to place locomotive engines on the rail way, directions were given to the superintendent to procure if possible fifteen, for the use of the Columbia rail way. Two have been purchased and placed on the road, they perform well. The remaining thirteen have been engaged, ten of which will be placed upon the road by the first day of March next, and the other three by the first day of June.

From the present prospect of a large increase of business on the Pennsylvania improvements, the board believe it will require from twenty to twenty-five engines to accommodate the trade and travelling next season, and that this number must be increased annually for several years to come. That a greater number has not been contracted for since the passage of the act than is now engaged, was owing to the difficulty of procuring them in this country, and the want of funds.—

The cost of those purchased is thrown upon the general appropriation for finishing and furnishing the road to make it useful.

Sideways, scales for weighing cars and their loading, collectors offices and water stations have been constructed, or are in a course of construction at necessary and convenient points along the road. A few more will be required to render the means of transportation complete.

#### *Canal—Main Line.*

Since our last annual report, the out let locks at Columbia, between the canal basin and the Susquehanna, have been finished. A collectors office at that place is now building—one end of the public basin wharfed, and this winter a wharf will be constructed the whole length of the basin on the side next the river.

A feeder dam nine and a half feet high, and three hundred feet long was built this summer in the Swatara creek at Portsmouth, from whence a feeder for the canal of two miles and a quarter in length is now in progress and will be ready for use by the 1st day of March next.

The eastern span of the bridge over the Susquehanna at Clarks ferry had settled so much as to render it necessary to build a new pier in the centre of the span. This was done and the bridge is now considered entirely secure.

In the original construction of the canal two dams were built in the Juniata river at North's Island, which in common with all other dams erected on the public works at the commencement of the system, proved defective. A new dam was built on the north side of the island last year, a like improvement is required on the south side, and it will be made as soon as practicable.

When the rope ferry above North's island was constructed, only one pier was built in the river to support the rope. This proved insufficient; and to remedy the defect, two additional piers were built by the supervisor.

The dam in the Juniata, at the head of the Long Narrows, had settled so much as to render it necessary to raise and strengthen it by the erection of a new breast or structure of crib work below it. This was accordingly done, by which the dam is effectually secured.—A narrow gorge, for several miles below this dam, causes the river to raise so high during freshets, as to burst the banks of the canal. To prevent occurrences of this kind hereafter, it will be necessary to construct a guard lock about two miles below the dam. Preparations are making to put two new spans in the aqueduct at Shaeffer's ford, and which will be done during the coming winter.

It became necessary to erect a new dam in the Juniata, on the south side of an island in the river, at the mouth of the Raystown branch, in lieu of the old one, which had become much impaired and was likely to fail. The work is now finished.

With a view of rendering the public improvements permanently secure, as well as to guard against accidents where any danger is apprehended, the board have caused the abutments, guard banks and heads of guard locks, at all the dams on the Frankstown line, to be raised and strengthened. There are two lift locks on this line requiring repair, which will be done this winter.

#### *Portage Rail Way.*

The first track of the Portage rail way was completed and opened for public use on the 18th of March last. The stationary engines and other machinery at the inclined planes, work well, and fully answer the purposes for which they were designed. Contracts are made for ten other engines: they are now constructing, and when finished, will be placed during the winter along side of those already in operation. These additional engines are intended to supply the place of the present

ones in case of accidents, and to accommodate the business as it increases on the road.

Immediately after the passage of the act making an appropriation for laying the second track on the mountain, orders were forwarded to England for seventeen hundred and ninety-three and a half tons of rails.—These orders were filled at one manufactory in Wales, in twelve weeks, and by the last advices the iron had all been shipped. Of sixteen thousand nine hundred and fifty bars of edge rails, eighteen feet long, contracted to be delivered, fourteen thousand five hundred and eighty-six were received at Philadelphia previous to the report of the superintendent, on the thirty-first of October. As soon as the iron arrives at the city, it is transported to the Portage. The chairs, pins, and wedges, about seven hundred tons, are manufactured in our own State.

Contracts were entered into, as soon as possible after the passage of the law making an appropriation for procuring the materials and doing all the necessary work to complete the road, and the work has been prosecuted with so much spirit as to insure its completion by the time the navigation opens in the spring, unless a failure should take place in the delivery of the balance of the rails, which is not apprehended.

Ground has been purchased at Hollidaysburg and at Johnstown, and contracts entered into for erecting thereon suitable buildings and machinery for the preservation and repair of locomotive engines belonging to the Commonwealth. This work is now in progress.—A riggers loft for the ropes of the inclined planes, is built on the summit of the mountain where the railway crosses the turnpike road—at this point, smiths' and carpenters' shops will also be built as soon as practicable, for repairing the stationary engines, machinery, &c.

At each end of the Portage, weighing scales and houses for weigh-masters are erecting, and are now nearly finished. Preparations are also making to construct two additional tracts along the basins at Hollidaysburg and Johnstown.

The inclined planes on the Portage, cover about five miles of the road, and the levels, eleven in number, cover about thirty-one miles. The level next to Hollidaysburg, and the two next to Johnstown, make an aggregate distance of twenty-two miles—on these three levels, locomotive engines can be used advantageously—the other eight levels, comprising above nine miles in length, must be worked with horses.

Upon being vested with the requisite authority by the Legislature, the board directed the superintendent to procure five locomotive engines, three of which have been engaged and it is expected will soon be delivered and placed upon the levels next to Johnstown; but an active trade will require more than double the number ordered.

Before quitting the subject of the rail ways, the Canal Commissioners take occasion to remark, that the experience of the past season has convinced them that these roads, either as regards revenue, facilities to trade or general accommodation, will not answer public expectation if thrown open like highways, to be used indiscriminately. Every person who has paid the least attention to the transportation upon them, since they were opened must be convinced that an unrestrained and indiscriminate application of motive power is attended with dangers, delays and interruption. Safety, regularity and punctuality, must first be secured, before these important links in our great chain of improvements can fully answer the purpose for which they were designed, and the board are decidedly of the opinion, that this desideratum is only to be obtained, by the Commonwealth furnishing all the motive power and directing its application.

The board would also respectfully refer the Legislature to the accompanying reports of the superintendents and engineers of the Columbia and Portage rail roads,

for the cost of stationary and locomotive engines, and the current expenses of motive power. The information contained in these reports in relation to all matters connected with the beneficial use of these works, is so clearly exhibited as to render it unnecessary, on the part of the board, to say any thing more on the subject—except earnestly, but respectfully urging upon the Legislature, the necessity of making early provision to procure a sufficient number of locomotive engines to accommodate a rapidly increasing trade.

#### *Western Division.*

Although the navigation of this line was maintained throughout the past season, the board consider it their duty to apprise the Legislature, that in very dry times, there may not be a sufficiency of water in the Cone-maugh river, to answer the demands of an active trade. To be prepared for an occurrence of this kind, a reservoir is deemed necessary, and the engineer of the line was directed to make an examination for a suitable site. There is no doubt entertained that by means of a reservoir, an ample supply of water can be collected and stored up to meet any emergency.

A weigh-lock and dwelling house for a weigh-master, dwelling house and office for the collector, and a bridge over the canal between these buildings, are now constructing at Johnstown, and nearly completed.

During the past summer a dam was built in the Cone-maugh river, at Blairsville, immediately below and attached to the old part of the dam, which was considered unsafe. Two years ago, one hundred and fifty feet were added to the length of the dam; this has stood firm, presenting another proof that dams may be constructed in any of our rivers, with perfect safety, capable of resisting the highest freshets without being injured.

New dams have likewise been built in the Kiskiminetas river, below and connected with the old ones, at the *Big Falls*, and at dam No. 3 below Rumbaugh's ferry; about one hundred and twenty feet of the dam at the *Big Falls*, were carried away by an ice flood, in the month of January last, but it was so far repaired by the 10th of March as to fill the canal with water.

A new breast of crib work has been added to the great dam at Leechburg, and, to prevent leakage, all the dams on the division, have been thoroughly gravelled.

Three new arches in the last aqueduct over the Allegheny river at the mouth of the Kiskiminetas, were put in during the suspension of the navigation last winter, in lieu of the old ones which had failed. Two new ones were also put in the Pittsburg aqueduct; but to render these works secure, several additional new arches are required. The timber for this purpose is all prepared, and the work will be finished the coming winter.

The out let-lock into the river at Allegheneytown, failed last year. A large portion of it had to be taken down and rebuilt. All the work connected with this job is finished. One side of the out-let-lock into the Kiskiminetas, below Saltzburg, was also found to be defective. It likewise was taken down and rebuilt.—Many of the locks on this division require repairing, and the heads of some of them must be taken down and reconstructed.

New cylindrical sewers of brick work, five feet in diameter, are constructing on each side of Grant's hill, in the city of Pittsburg, for the purpose of conveying away the wash, which descends from the hills, and preventing it from running into the canal as heretofore. One million ninety-six thousand nine hundred and ten bricks will be required for this job. The sewer leading into the Monongahela is one thousand seven hundred feet long, and was nearly finished on the 31st of October. The other two thousand seven hundred feet

long, which empties into the Allegheny river, is so far advanced as to render the completion of the work required this fall, highly probable.

#### *Beaver and French Creek Divisions.*

Having in former reports given detailed descriptions of the public improvements, and their situation with the length of the rail roads, canals, slack water and feeders; the number of dams, aqueducts and locks, with the amount of lockage on each line, the board think a repetition of the same facts, in the present report, unnecessary. In relation then to the Beaver and French creek divisions, they have only to remark, that, with the exception of a few unimportant jobs, these divisions containing seventy-six miles of isolated canal are completed, and in good navigable order.

#### *Susquehanna Lines.*

No new work of any consequence was required within the last year on the Susquehanna division, or the Muncy line of the West Branch division, except a weigh lock at Northumberland, which is nearly finished.

In 1832 a portion of the Nanticoke dam on the North Branch, was carried away by a freshet, and it was substantially re-built during that season; the remaining part of the dam having failed last spring, was replaced by a new structure built the past season.

New safety gates have been erected upon the same line opposite to Catawissa and at Santee's, for the purpose of protecting the canal against the effects of floods which on the North Branch of the Susquehanna, rise to a great height.

The locks upon the old line of the North Branch division, eight in number, are built entirely of timber, and are the only locks of the kind on the public improvements of the State. They are decaying, and must all be re-constructed within a short period. The sound policy of re-placing them with substantial stone locks is evident, and for which preparations should be made next summer. It may not be considered inappropriate at this place to remark, that the use of a material so perishable as timber should, as far as consistent with true economy, be avoided on the canals and rail roads of the State.

The towing path along the pool of the Nanticoke dam is wearing away by the action of the water in the river. Extensive protection wall or rip rap is required for its preservation.

That portion of the Wyoming line, which was unfinished at the date of our last report, was completed and opened for public use on the fourth of last July, and it stood the introduction of the water as well as any new line in the State. But the satisfaction derived by the Board from that circumstance was considerably abated, upon ascertaining that the sum required to pay the final estimates made by the engineer in accordance with the prices and provisions of the contracts, would much exceed the amount estimated by him last year as necessary to complete the line. That officer's services having been dispensed with in July last, he left the line without explaining the cause of the excess over his estimate for completion.

The Lycoming line of the West Branch division, including the Lewisburg and Ball Eagle side cuts, is also finished, filled with water and in public use.

It is a fact worthy of notice, as connected with the progress of the public improvements of Pennsylvania, that on the one hundred and seventy-four miles of canal and feeder constructed since the passage of the act of 1831, only two or three failures occurred. Every description of work has proved to be of the most substantial character, and has fully demonstrated that newly constructed canals can be made capable, as

soon as finished, of withstanding all the casualties to which from their location they are liable.

#### *Delaware Division.*

Respecting this valuable division of the public works, the Board have little to communicate. It was opened for trade on the first of March, and has continued in good navigable order throughout the season. Some difficulty still exists in supplying the levels of the canal below New Hope with water. But it is hoped that the pending negotiation with the State of New Jersey, for the mutual use of water from the Delaware, will terminate in an arrangement satisfactory to both States, and remove all future difficulties.

The only work of importance done on this line since last year, is a new breast to the old dam on the river Lehigh at Easton. The precarious condition of the old dam rendered an additional structure necessary. It is now entirely secure.

Many of the bridges on this line are in a ruinous condition; and as no provision is made by law for the re-construction or repair of bridges over the canal, the Board respectfully ask the Legislature to give the subject their early consideration.

In the discharge of the duties devolving on the Canal Commissioners, it has always been to them a source of regret and vexation to find themselves compelled annually to ask for larger appropriations than was contemplated in the estimates of the previous year. But in the construction of such extensive and difficult improvements as the canals and rail-roads of Pennsylvania, carried as they have been along and over broad, deep and rapid rivers, through rugged defiles and over lofty mountains, it was impossible to foresee and calculate the innumerable contingencies to which such works are liable. Besides, the most experienced and skilful engineers could not anticipate or estimate the sums that might be required by subsequent legislation, or by the orders of the Canal Board, issued to meet emergencies, repair damages, and perfect the system.

To illustrate the foregoing remarks, it is only necessary to observe that at the last session of the Legislature an act was passed authorizing locomotive engines to be procured for the rail-roads, without any specific provision being then made to pay for them or to pay for the expense of keeping them and the stationary engines in use. Hence the construction fund had to sustain the out-lay upon these objects, as well as the collateral cost of depots, engine houses, machine shops, water stations, &c. &c., and consequently there is on these accounts a deficiency in the appropriations.

#### *Portage Rail Way,*

Amount applicable of appropriations made prior to the 1st November, 1833,	\$1,214,793 06
Appropriation of the 5th April, 1834,	365,900 00
Amount,	1,580,693 06
Expended prior to 1st November, 1833,	\$1,041,121 55
Do. year ending 1st Nov. 1834,	403,587 84
	1,444,709 39
Balance on hand,	\$135,983 67
Sum required to complete the rail way,	\$282,574 85
Deduct the above balance,	135,983 67
Leaving a balance to be provided, of	\$146,591 18

#### *Columbia Rail Way.*

Amount applicable of appropriations made prior to the 1st November, 1833,	\$2,402,100 36
Appropriation of the 5th April, 1834,	804,900 00
Amount,	3,207,000 36
Expended prior to 1st Nov. 1833,	\$1,700,798 99
Do. year ending 1st Nov. 1834,	1,499,756 58
	3,200,555 57
Balance,	\$6,444 79
Sum required to complete the rail way,	\$117,020 00
Deduct the above balance,	6,444 79
Leaving a balance to be provided, of	\$110,575 21

#### *Lycoming Line.*

Amount applicable of appropriations made prior to the 1st November, 1833,	\$857,431 76
Appropriation of the 5th April, 1834,	301,200 00
Amount,	1,158,631 76
Expended prior to 1st Nov. 1833,	\$706,008 47
Do. year ending 1st Nov. 1834,	442,200 86
	1,148,209 33
Balance on hand,	\$10,422 43
Sum required to complete the line,	\$57,364 44
Deduct the above balance,	10,422 43
Leaving a balance to be provided, of	\$46,942 01

#### *Wyoming Line.*

Amount applicable of appropriations made prior to 1st November, 1833,	284,892 85
Appropriation of the 5th April, 1834,	17,400 00
Amount,	302,292 85
Expended prior to 1st Nov. 1833,	227,555 00
Do. year ending 1st Nov. 1834,	74,567 25
	302,122 25
Balance on hand,	170 60

Sum required to complete the line,	40,674 30
Deduct the above balance,	170 60
Leaving a balance to be provided, of	40,503 70

#### *French Creek Division.*

Amount applicable of appropriations made prior to the 1st November, 1833,	348,160 29
Appropriation of the 5th April, 1834,	94,400 00
Amount,	442,560 29
Expended prior to 1st Nov. 1833,	302,783 93
Do. year ending 1st Nov. 1834,	123,508 48
	426,292 41

Sum required to complete division,	16,267 88
	15,163 04
Balance on hand,	1,104 84
<i>Beaver Division.</i>	
Amount applicable of appropriations made prior to the 1st November, 1833,	424,241 62
Appropriation of the 5th April, 1834,	57,100 00
Amount,	481,341 62
Expended prior to the 1st Nov. 1833,	384,213 57
Do. year ending 1st Nov. 1834,	85,598 91
	469,812 48
	11,529 14
Amount required to complete	6,589 00
Balance on hand,	4,940 14

A statement of the sums drawn from the Treasury in the year ending the 31st October, 1834, out of the fund appropriated for new work upon old lines:

Pay of the Canal Commissioners, their secretary and office expenses, on account of the year ending the 1st Monday of June last,	5,443 47
Do. on account of the present year,	3,000 00
Appraisers of damages,	90 00
Delaware division,	20,000 00
Eastern division,	12,600 00
Juniata division,	18,000 00
Western division,	31,000 00
North Branch and Susquehanna divisions,	4,801 70
West Branch division,	2,000 00
French Creek feeder,	1,200 00
	\$97,535 17

The details of the above expenditures upon the divisions appear in the reports and tables of the several superintendents accompanying this report.

Statement of the sums drawn from the Treasury for repairs of the canal and rail ways in the year ending the 31st October 1834.

Columbia rail way,	82 miles,	\$5,000 00
Eastern division and lower 13 miles of the Juniata division,	58	21,730 44
Juniata division upper part,	119	36,439 65
Portage rail way,	36½	10,481 56
Western division,	106½	87,070 22
French creek feeder,	19½	17,328 66
Susquehanna division,	39	43,241 18
West branch division,	26½	28,535 57
North branch division,	64	57,069 78
Delaware division,	59½	51,933 90

Whole amount drawn,	358,470 96
Amount paid for repairs due on the 1st Nov. 1834, as appears from the last report,	64,298 58
	294,172 38

To which add the sums due by super- visors, over and above the balances in their hands,	23,463 22
	317,637 60

Of this sum there has been expend- ed for rebuilding and repairing dams,	113,783 12
---	------------

Current repairs on 611 miles of canal and rail way,	\$203,854 48
--	--------------

The expenditure upon dams rebuilt and repaired the

past season ought not to be classed with current repairs, inasmuch as when they were erected the method of constructing dams permanently had not been acquired. The actual sum therefore expended in the ordinary and current repairs for the last year is, as above stated only two hundred and three thousand eight hundred and fifty-four dollars and forty eight cents.

A statement of the sums drawn from the Treasury, for damages upon the canal and rail ways in the year ending the 31st October, 1834.

Columbia rail way,	570 00
Eastern division,	21,500 00
Juniata division,	10,000 00
Western division and Portage rail way,	15,000 00
Susquehanna and North Branch di- visions,	1,900 00
West Branch division,	5,385 00
Delaware division,	1,100 00

Whole amount drawn, \$55,455 00

*Statement of the sums required to finish the work under contract.*

Upon the Portage rail way,	146,591 18
Upon the Columbia rail way,	110,575 21
Upon the Lycoming line,	46,942 00
Upon the Wyoming line,	40,503 70

\$344,612 09

There will be required to pay contracts chargeable upon the fund for new work upon old lines, such as the completion of the Swatara feeder, the weigh locks and houses for collectors and weigh-masters, and also to purchase and improve lock house lots, to build fences, to commence a reservoir near Johnstown, and for the pay of the canal commissioners, their secretary and office expenses, appraisers, superintendents and resident engineers, chargeable upon this fund the sum of

\$125,000 00

There will be required for repairs of the canal and rail way the ensuing year,

\$200,000 00

To pay damages,

30,000 00

There will be required for purchasing locomotive engines the present year—

For the Columbia rail way 18 engines,

\$113,400 00

For the portage 5 do.

31,500 00

The above estimate includes the cost of completing the rail way and furnishing a supply of locomotive engines for the coming year; but it does not embrace the expenses of maintaining the stationary and locomotive engines while in use: nor of repairing or replacing them when necessary. It is contemplated by the board to charge the trade and travel upon the rail ways, whatever may be the actual cost of the motive power furnished by the state, and no more. But as this money must be transmitted to the State Treasury along with the tolls, and cannot be drawn therefrom and applied to defraying the expenses of the motive power; and as these expenses will be immediate and pressing, the board respectfully ask the Legislature to pass a law authorising the appropriation of the money thus arising, to the proper object; and also to provide by a special appropriation, a fund of about forty or fifty thousand dollars to commence and maintain the motive power on the rail ways until the money arising from that source can be made available.

A number of private claims were submitted to the board by acts and resolutions of the Legislature, passed at the last session. These so far as they have been presented, have been severally decided.

Signed by order of the Board,  
JAMES CLARKE, President.

Fns. R. SHUNK, Secretary.

Harrisburg, December 2, 1834.

(Tabular statements next week.)

From the Pennsylvania Intelligencer.

## PENNSYLVANIA LEGISLATURE.

The following are the standing committees of the Senate and the House of Representatives appointed by their speakers.

### SENATE.

*Accounts.*—Messrs. Rogers, Fore, Hibshman, F. J. Harper and James.

*Claims.*—Messrs. Smyser, Hays, Geiger, Sangston and Strohm.

*Judiciary.*—Messrs. Cunningham, Penrose, Burden, Leet and Slenker.

*Militia.*—Messrs. Matheys, Rogers, McCulloch, Cunningham and Petriken.

*Banks.*—Messrs. Baker, Toland, Dickey, Klingensmith, and Newhard.

*Education.*—Messrs. Fullerton, Read, Smith, Middlecoff and Kelly.

*Roads, Bridges, and Inland Navigation.*—Messrs. Petriken, Dickey, Matheys, Strohm and Smyser.

*Agriculture.*—Messrs. Krebs, Kelly, Fullerton, Hibshman, and John Harper.

*Compare Bills.*—Messrs. Dickey, James Slenker, John Harper and Toland.

*Election Districts.*—Messrs. Klingensmith, McCulloch, Krebs, Hopkins, and Hays.

*Vice and immorality.*—Messrs. Fore, Baker, Geiger, Hibshman and Leet.

*Corporations.*—Messrs. Read, Sangston, Smith, Burden and Krebs.

*Estates and Escheats.*—Messrs. Penrose, Hopkins, James, Hays and F. J. Harper.

*Revenue Bills.*—Messrs. Hassinger, Cunningham, Rogers, Matheys and Middlecoff.

*Private Claims.*—Messrs. Hopkins, Baker, McCulloch, Fore and Leet.

*Library.*—Messrs. Burden, Read and Newhard.

*Public Buildings.*—Messrs. Newhard, Middlecoff, Sangston, Hassinger and Smith.

### HOUSE OF REPRESENTATIVES.

*Committee of Ways and Means.*—Messrs. Morris, Anderson, (Del.) Irish, Mather, Pollock, Peltz, Hill.

*Judiciary.*—Messrs. McCulloch, Fornance, Stevens, Bidlack, Read, (Co. Ph.) Spackman; Frazier.

*Claims.*—Messrs. McElwee, Middleswarth, Jones, Reed, (city,) Conrad, Rheiner, Jackson, (Berks.)

*Agriculture.*—Messrs. McClellan, Jackson, (Lanc.) Christman, Hummel, Emmert, Riegel, Reed, (Bedford.)

*Education.*—Messrs. Anderson, (Del.) Lawrence Reigart, Cowden, Cromwell, Stokes, Derr.

*Manufactures.*—Messrs. Lacock, Lynn, Hutchinson, Helffenstein, J. B. Smith, Kerr, (Alleg.) Burson.

*Accounts.*—Messrs. Bennett, Clarke, Banks, Stokes, Handy, James, Brooks, (York.)

*Militia.*—Messrs. Patterson, (Fay.) Paynter, Murry, Miller, (Leligh) M'Sherry, Woodward, Schneider.

*Election Districts.*—Messrs. Kerr, (Butler.) Erb, Huston, Williams, Taggart, Runsha, Hottenstein.

*Estates and Escheats.*—Messrs. Fornance, Miller, (Fay.) Brooke, (Chester,) Cox, Curran, Erdman, Kooker.

*Banks.*—Messrs. Peltz, Snyder, Davies, Paynter, Reed, (City,) Harrison, Frazier.

*Roads and Bridges.*—Messrs. Dewart, Herrington, Elrich, Hopkins, Carson, Rhinehart, Patterson, (Lancaster.)

*Corporations.*—Messrs. Ayres, Reed, (Philadelphia Co.) Hipple, Lewellen, E. S. Smith, Anderson, (Alleg.) Parker.

*Internal Improvements.*—Messrs. Miller, (Philad. City) Heston, Lacock, Walker, T. S. Smith, Lynn, Smith, (Brad.) Pennypacker, Brawly, Irvin, Gamble, Douglass, Beale.

*Local Appropriations.*—Messrs. Bayne, McSherry, Krause, Hasson, Richards, Derr, Imhoff.

*Vice and Immorality.*—Messrs. Scott, Cowden, Pennypacker, Runsha, Herrington, Erb, Cox.

*To Compare Bills.*—Messrs. Rheiner, Jackson, (Lanc.) Hasson.

*Library.*—Messrs. Middleswarth, McCulloch, Ayres.

*Lands.*—Messrs. Lacock, Bennett, Stevens, Walker, Jones, Reed, (city,) Richards.

### UNITED STATES SENATOR.

The two Houses assembled in convention at 12 o'clock, December 6, 1834, for the purpose of electing an United States Senator to supply the vacancy occasioned by the resignation of Mr. Wilkins. The following is the result of the votes.

Candidates.	Votes.			
	1st.	2d.	3d.	4th.
B. W. Richards,	1	1		
J. B. Sutherland,	14	15	13	1
James Buchanan,	25	42	58	66
John Breden,	8	7		
Thomas Ringland,	11	9		
Amos Ellmaker,	29	29	29	31
Joseph Lawrence,	16	15	12	6
Calvin Blythe,	6	5		
James Clarke,	6	6	16	26
Nathaniel B. Eldred,	8			
George Kremer,	3			
Charles Shaler,	2			
Abner Lacock,	1	1	2	

Sixty-six votes being necessary to a choice, Mr. Buchanan was declared elected.

*Pennsylvania Intelligencer.*

BEDFORD, (Pa.) Nov. 21.

**THE WEATHER.**—We have had an extraordinary season. The Summer was remarkable on account of the drought; and the autumn for its uninterrupted mildness. Since the fourth day of July, we have not had a rain of any consequence. The crops, though bright with the promise of a plentiful harvest in the early part of May, have in many places altogether failed. The streams have been almost dried up. Many of the best mills in the county have scarcely turned a wheel for the last two or three months. On Saturday last, however, the mountains were visited by a snow of several inches, which has since been followed by a considerable quantity of sleet and rain.

**PUDDLING OR REFINING IRON WITH ANTHRACITE COAL.**—We understand that Mr. M. B. Buckley, of this Borough, has made a successful experiment of puddling or refining iron with Anthracite Coal. The iron thus refined has been tested and found to be of an excellent quality. The advantage to be derived from this experiment is, that iron can be refined by the use of Anthracite Coal, from twelve to fifteen dollars per ton cheaper than by the usual method. Judging from the discoveries already made, we have no doubt but that Anthracite Coal will, in a few years, be applied to all the purposes for which wood is now used in making iron.—*Miners' Journal.*

## ECLIPSE OF THE SUN.

Mr. COCHRAN,

The following observations were made during the Eclipse of Sunday last. If you deem them of sufficient interest for publication they are at your service.

YORK, Pa. Nov. 30th, 1834.

Beginning	51 min past 12.
Middle or greatest obscuration	2h. 16 min.
End	3h. 31 min.
Duration	2h. 40 min.

The Thermometer during the afternoon stood as follows.

In the sun.	In the shade.
At 12 o'clock 85 degrees	56 degrees
" 30 min. 85½	56½
Begin. 51 min. 86	56½
1h 20 m 82	55
1h 40 m 72	53
2h 00 m 59	53
2h 10 m 53	52½
Middle 2h 16 m 52	52
2h 20 m 52½	52
2h 25 m 55	52½
2h 30 m 60	53
2h 40 m 68½	53½
3h 00 m 74	54
3h 20 m 78	54
End 3h 31 m 78½	54
3h 35 m 77	53½
4h 00 m 76	53

The Thermometer fell in the sun 33° in the shade 40° After 1 o'clock, 40 minutes, a sear could not be lit in the focus of a good "burning glass," and after 2 o'clock 23 m but very little heat could be received in its focus.

At 2 o'clock a large flock of about 50 of what we supposed to be Swans, passed directly over the centre of the unobscured part of the sun. This was seen very distinctly by four persons at the time through a telescope, though it could not be perceived through a smoked glass.

The Town clock according to this calculation is 35 minutes too fast.—*York Republican*.

Observations on the ECLIPSE of the SUN which happened November 30th, 1834. Made at Friends observatory, 4th street, Philadelphia:—

By JOSEPH ROBERTS, JR.

The Morning clear;—without clouds till about 11 o'clock, when the East, West and Southern sky became overcast with thin white clouds moving from the west.

At noon determined the state of the clock by the fixed transit instrument.

The beginning of the Eclipse observed with an Achromatic telescope with a power of about 38,—happened at 1h 00m 15 sec. 85 mean civil time; corrected for the rate of the clock determined by transits both before and after the Eclipse.—The observation of the beginning very good. But from a few minutes after the beginning till sometime after the end of the Eclipse there was a constant succession of clouds between the sun and the observer, often so dense as to render the sun invisible.

At the time of the greatest obscuration the sun visible through thin clouds:—determined the magnitude of the Eclipse when compared with a measure of the suns diameter taken with a Traughton Micrometer near noon of the same days. The obscured part measured 10,755 digits which differs from the calculation about a three hundredth part of a digit, or 5 seconds.—This observation made under unfavorable circumstances.—The end of the Eclipse happened at 3h 37m 45sec. mean time corrected: hazy about the Sun;—may have caused the disappearance of the moon

a few seconds before the actual end of the Eclipse, in which case the latter number should be increased a few seconds.—*Poulson's Advertiser*.

A friend has furnished us with the following table, showing the state of the thermometer, while subjected to a southern exposure, during the Eclipse of Sunday last. It will be observed that it fell eleven degrees.

15 minutes past 1 o'clock,	58 degrees.
18 "	" 56
25 "	" 56
30 "	" 54
35 "	" 53½
40 "	" 52
45 "	" 50
50 "	" 50
55 "	" 49
2 o'clock	49
5 minutes past 2 o'clock,	48
10 "	" 48
15 "	" 48
20 "	" 48
25 "	" 47
30 "	" 47
35 "	" 47
40 "	" 47
50 "	" 48
3 o'clock	48
10 min. past	48
20 "	47

Philadelphia Inquirer

## STEAMBOAT NAVIGATION.

The project of establishing a Steamboat communication, between this place and Owego, is we learn rapidly approaching its consummation. The boat which is in the progress of building at the latter place, will be completed as early as April, and immediately commence her trips. Without any improvement in the bed of the river it is supposed that this boat can ply at least four months in the year; but with a trifling expense in clearing away sand bars, will run the entire season, when not impeded with ice.

It requires no argument to show the immense advantages, that would accrue to this valley, by the opening of this communication, and we have often had occasion to regret the existence of so much apathy upon the subject on the part of our citizens. We suppose, however, that their disappointments, in reference to our canal, have rendered them in a measure incredulous, as to the benefit in any improvement, but nevertheless any accurate observer must be convinced of the great utility of the proposed Steam Boat navigation. At any rate the experiment will cost but a few thousand dollars, and should it fail no one will be seriously injured; but we have the utmost confidence in its entire success.—*Wilkes barre Democrat*.

NEW COUNTY BRIDGE.—The County Bridge, on the township line road, between Bristol and Germantown, is now finished, and the road is opened for travellers. The Bridge is said to be the largest in the county, being upwards of four hundred feet in length, and has cost in its erection, ten thousand dollars. To all travellers who prefer avoiding the turnpike, it opens the shortest and best road between Norristown and the city, crossing the Flourtown turnpike at the foot of Chesnut-Hill;—and by the Lime-Kiln road the distance through Germantown to Doylestown, by the way of this bridge, is believed to be shorter and better than by the usual route through Braughton; and to all travellers down the township-line road, it affords not only the shortest road to the city, but less turnpike—the latter may be almost wholly avoided by taking the usual route by Bockius' tavern.

Germantown Tel.

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 25. PHILADELPHIA, DECEMBER 20, 1834. NO. 363.

## PHILADELPHIA LYING-IN CHARITY.

Second Annual Report of the Managers of the Philadelphia Lying-in Charity, with the list of Officers.

According to the provisions of the Charter, the second annual meeting of the contributors to the Philadelphia Lying-in Charity, was held November 11th, 1833,—Roberts Vaux, Vice President, in the Chair.

### *Report of the Board of Managers.*

After a lapse of one year, we have again assembled to review the operations of the Philadelphia Lying in Charity, as they have been directed since our last meeting, and to take some general view of its present condition. The experience of the past year has furnished additional evidence of the utility of our association, and of the importance which is connected with its liberal support from the community.

The subjects for whose relief the application of the benefits of our institution is intended; are those who require its peculiar aid, under indigent circumstances. Numerous are the charitable associations, which, in this philanthropic community, diffuse in various modes, among the suffering indigent, the means of comfort and happiness. Are not the assistance and advantages which this charity is able to confer, at least of equal importance with many that exist? Those who have passed through the parturient period, one of suffering and solicitude, in the midst of poverty, want, and desertion, can best answer. But we will not longer detain you by needless efforts to establish the importance and utility of our institution—so long as the exercise of charity shall be necessary in a mixed community, so long as relief afforded to human suffering shall be considered proper and useful, so long will the operation and the influence of our association be required. The number of cases attended by the Physicians connected with the institution during the past year, is fifty-three, a number exceeding the amount of last year by eleven. Thus, the number who have experienced the benefit of the charity, has increased with its duration, and as the knowledge of its existence has become more extended. It may, with reason, be presumed, that many cases have occurred during the past year, within the limits of the operation of the charity, that might have been happily relieved, had the individuals possessed the knowledge of its existence.

Having advanced steadily forward in the work of charity, and been the instrument of affording relief to such as have applied for its benefits, this association may cherish the cheering satisfaction of having done good.

This object, thus, so far attained, shall be steadily pursued, as it should form at all times, the leading principle to animate and direct the exertions of the society.

Entertaining, however, the large wish of extending the usefulness of this association, we find in the low state of the funds, sufficient cause to repress the ardour of philanthropic feeling. When we consider the importance connected with the prosperity of our institution, the efficient and consoling relief it has already afforded, and the peculiar situation of its objects, we seem naturally to look from a benevolent community, for a liberal contribution to its support, in common with

other charities of no superior utility. But, so far, we can acknowledge, but few favors from the public; and except a few contributions, the funds have been supplied by the immediate members of the Board of Managers and Physicians. By the Treasurer's report, it appears, that a balance only of fifty-nine dollars fifty-two cents remains in the treasury in favour of this institution; and this will be shortly reduced to thirty-nine dollars fifty-one and a half cents; by the payment of a bill, already rendered, for printing and publishing subjects calculated to advance the interests of the society.

Should the charities of the association be much further extended, the strongest necessity will exist for the augmentation of its funds, or its expenses cannot be defrayed, and thus, either the society can relieve only a very limited number of cases, or it will be compelled by a heavy burden of debt, to discontinue its operations altogether.

Must then a charitable institution, "the first and the only one of its precise nature in this country," having for its object the relief of that "neccititous class of the female community, whose interesting situation claims the fostering care of the humane"—having for its object, the relief of the disconsolate parturient female, depressed by poverty, or abandoned by remorseless husbands,—must it then, while capable of so wide an extent of usefulness, languish, and finally expire, for want of that vital and ample support which might be so readily, and so abundantly afforded! Rather may we not hope, that this appeal may not be made in vain, that such an issue may not be destined for an institution, which, a community enlightened and generous, ought to cherish, and the prosperity and usefulness of which, it ought by all means to promote.

Aided extensively, by the liberal contributions of a philanthropic public, this institution, would soon acquire vigour and efficiency of operation, and would be enabled to fulfil without limitation, all the charitable offices which it contemplates; while to the benefactor of the poor, the consciousness of suffering relieved, and of comfort and happiness diffused among the miserable indigent through his instrumentality, would be productive of an ample reward.

By order of the Association,

ROBERTS VAUX, Vice President.

Attest, H. WALTON, Secretary.

The Contributors then proceeded to elect officers for the ensuing year; when the following gentlemen were chosen:—

*President*—W. P. Dewees, M. D.

*Vice Presidents*—Roberts Vaux, Alex. Henry.

*Chairman of the Medical Board*—F. S. Beattie, M. D.

*Treasurer*—Edward Needles.

*Secretary*—Harper Walton, M. D.

### *Managers.*

Christopher Marshall,

Alexander Henry,

Levis Walton,

Moses Reed,

John Crean, jr.,

John Stille,

Samuel Moore,

Charles H. Dingie,

Roberts Vaux,

Edward Needles,

Thomas Estlack,

Eli Welding,

James Hutchinson,

Thomas Eustace,

Charles H. White,

John Paul,

Daniel M'Curdy.

## THE REPORT OF THE CANAL COMMISSIONERS.

(Concluded from page 382.)

Statement of the property cleared at the several offices upon the Pennsylvania Canal and Rail way during the year ending the 31st October, 1834.

COLLECTORS' OFFICES.	Flour.	Wheat.	Rye, Corn, &c.	Grass seeds.	Potatoes.	Beef and Pork.	Fish.	Butter, Cheese.
	Barrels.	Bushels.	Bushels.	Bush's.	Bushels.	Barrels.	Barrels.	Pounds.
Philadelphia	7	0	0	15	175	7	1,069	129,638
Columbia	154	226	1,334	0	0	0	75	0
Portsmouth	77	0	2,702	0	0	228	15,520	0
Harrisburg	0	0	0	0	0	185	1,412	0
Holidaysburg	15	0	1,030	0	0	0	3,193	802
Johnstown	0	0	1,980	0	0	0	3,134	0
Northumberland	0	0	0	0	0	0	1,067	0
Bristol	0	7,151	1,330	0	406	82	5,516	24,844
Agg. of the intermediate offices	761	498	3,800	1,130	130	22	7,807	2,151
North and West	1,014	7,875	12,176	1,145	711	524	33,793	157,435
Pittsburg	15,199	0	4,080	0	0	7,821	492	57,191
Johnstown	6,397	0	30,774	0	0	0	0	0
Holidaysburg	3,993	0	875	210	6	770	0	26,185
Northumberland	7,483	89,838	14,423	3,918	1,196	204	0	112,446
Harrisburg	6,508	4,044	6,703	843	54	1,155	0	27,736
Portsmouth	94	2,774	579	31	85	0	263	0
Columbia	1,661	124	107	0	0	0	0	1,482
Easton	40,152	8,888	43,080	0	515	0	0	18,289
Agg. of the intermediate offices	51,335	87,585	47,145	7,374	1,600	478	23	264,045
South and East	132,822	193,248	147,766	12,376	3,456	10,428	778	507,374
Total	133,836	201,125	159,942	13,521	4,167	10,952	39,571	664,809

COLLECTORS' OFFICES.	Lard & tallow.	Salt.	Provisions.	Wool.	Cotton.	Hemp.	Tobacco.	Leather, &c.	Furs, &c.
	Pounds.	Bushels.	Pounds.	Pounds.	Pounds.	Pou'ds.	Pounds.	Pounds.	Pounds.
Philadelphia	664	7,416	475	3,933	42,236	270	22,081	88,171	3,525
Columbia	0	83	6,733	0	0	0	1,200	0	0
Portsmouth	0	41,662	730	0	0	30,608	0	775,323	2,027
Harrisburg	0	1,104	0	0	0	0	0	0	0
Holidaysburg	0	0	0	0	0	14,595	0	57,992	0
Johnstown	0	0	0	0	0	2,548	0	37,931	0
Northumberland	0	9,901	0	0	0	0	0	18,064	0
Bristol	13,606	36,663	49,565	0	35,244	3,471	161,614	223,583	1,250
Agg. of the intermediate offices	0	277,945	31,008	540	665	450	10,235	11,046	0
North and West	14,270	374,774	88,511	4,473	78,145	51,942	195,730	1,212,050	6,802
Pittsburg	69,114	26,155	187,280	669,408	60,014	5,548	2,561,345	58,196	99,499
Johnstown	0	17,653	1,886,133	637,691	59,482	0	2,284,679	20,483	109,160
Holidaysburg	54,190	8,156	1,378,812	665,856	55,599	3,612	2,388,351	28,800	21,248
Northumberland	4,134	0	245,571	0	0	0	663	48,864	0
Harrisburg	41,385	0	32,027	401,611	41,594	1,481	1,381,074	230,536	69,747
Portsmouth	0	1,006	0	0	0	0	0	0	0
Columbia	17,502	0	3,643	385	0	0	43,485	32,679	215
Easton	1,000	0	0	0	0	0	4,680	93,448	0
Agg. of the intermediate offices	0	13,183	298,212	83,996	37,018	566	500	3,145	306
South and East	200,508	351,212	4,017,462	2,411,969	217,255	11,141	8,667,422	738,116	300,169
Total	214,778	725,986	4,105,973	2,416,442	295,400	63,083	8,863,152	1,950,166	306,971

## Statement of Property cleared at the several offices upon the Pennsylvania Canal and Rail way, Continued.

COLLECTORS' OFFICES.	Whiskey.	Domestic Spirits.	Foreign Liquor.	Merchandise.	Oil.	Gypsum.	Furniture.	Win'w Glass.	Rags.
	Gallons.	Gallons.	Gallons.	Pounds.	Gallons.	Tons.	Pounds.	Boxes.	Pounds.
Philadelphia	300	0	66,377	1,136,661	5,670	78	135,041	259	12,342
Columbia	4,016	0	0	33,138	83	1	15,684	0	0
Portsmouth	0	0	0	29,101,469	22,950	5,867	296,809	75	0
Harrisburg	0	0	0	8,446,710	3,182	150	271,302	0	0
Holidaysburg	150	0	34,426	15,005,663	9,659	24	155,111	0	0
Johnstown	0	0	24,618	14,954,425	8,397	15	480,524	0	2,991
Northumberland	0	0	33	961,787	2,503	561	0	0	0
Bristol	0	33,401	40,131	3,330,846	18,484	2,393	76,103	482	5,800
Agg. of the intermediate offices	6,412	283	6,586	2,954,740	5,548	387	265,361	220	2,600
North and West.	10,878	33,684	172,171	75,935,459	74,476	9,706	1,395,935	1,036	23,753
Pittsburg	78,047	0	2,689	1,052,752	2,233	0	123,514	3,212	179,18
Johnstown	28,324	0	0	794,630	30	0	78,452	2,455	118,87
Holidaysburg	13,007	0	240	311,377	456	5	36,311	2,587	171,934
Northumberland	110,500	1,158	0	0	0	0	109,462	1,063	36,299
Harrisburg	17,282	0	0	0	0	0	0	0	149,467
Portsmouth	970	0	0	50,378	0	987	7,839	0	0
Columbia	697	0	0	3,398	31	0	8,017	0	1,115
Easton	199,093	0	0	5,121	16,335	0	77,038	49	39,490
Agg. of the intermediate offices	198,540	1,292	60	70,504	667	14	124,219	251	83,92
South and East	646,460	2,450	2,989	2,288,160	19,752	1,006	564,852	9,617	780,296
Total	657,338	36,134	175,160	78,223,599	94,228	10,772	1,960,787	10,653	804,029

COLLECTORS' OFFICES.	Mineral Coal.	Iron.	Lead.	Copper & Tin.	Marble	Lime.	Limestone.	Slate for roofs.	Bricks
	Tons.	Pounds.	Pounds.	Pounds.	Pounds.	Bushels.	Perches	Pounds.	Thou sand.
Philadelphia	288	10,247,984	4,165	19,007	4,716	00	00	0	51
Columbia	00	553,125	266	1,595	00	250	00	0	0
Portsmouth	00	3,196,266	00	8,960	233,034	00	00	0	18
Harrisburg	00	00	1,429	3,580	17,299	3,360	351	0	331
Holidaysburg	00	13,718,355	00	17,487	00	533	00	0	19
Johnstown	00	11,190,817	00	00	00	00	00	0	0
Northumberland	00	00	00	00	48,832	00	00	0	7,675
Bristol	233	366,016	1,293	10,509	106,184	1,182	00	0	0
Agg. of the intermediate offices.	1,007	7,040,931	5,557	15,661	3,335	117	00	0	9
North and West	1,528	46,313,494	12,710	76,799	413,400	5,442	351	0	8,103
Pittsburg	1,159	4,726,841	26,375	11,555	00	00	00	0	374
Johnstown	00	421,170	00	00	00	00	00	0	0
Holidaysburg	3,800	87,632	00	00	00	00	65	0	18
Northumberland	3,482	159,227	00	100	00	940	00	0	12
Harrisburg	4,010	1,201,001	00	00	00	00	00	0	0
Portsmouth	1,431	3,237,719	00	00	4,480	00	00	0	3
Columbia	00	386,509	00	00	00	00	00	0	0
Easton	81,390	916,288	00	00	00	00	984	124,648	0
Agg. of the intermediate offices	8,097	6,545,153	15	860	749,528	36,278	2,073	0	206
South and East	103,349	17,681,540	26,390	12,515	754,008	37,218	3,122	124,648	613
Total.	104,877	63,995,034	39,100	89,314	1,167,408	42,660	3,473	124,648	8,716

Statement of the Property cleared at the several offices upon the Pennsylvania Canal and Rail way, concluded.

COLLECTORS' OFFICES.	Timber	Sawed Lumber.	Staves, head'g & hoop poles.	Shingles.	Posts and Rails.	Wood for Fuel.	Bark.	Sundries.
	Feet.	Feet.	Pounds.	Thous'd.	Hundr'd.	Cords.	Cords.	Pounds.
Philadelphia	12,134	22,144	0	2	0	0	0	606,641
Columbia	3,223	66,753	0	17	0	0	0	244,188
Portsmouth	0	124,345	0	43	0	0	0	977,638
Harrisburg	0	0	0	0	0	0	0	1,548,401
Hollidaysburg	0	0	0	0	0	0	0	288,857
Johnstown	277	3,800	0	0	0	0	0	176,972
Northumberland	0	0	0	0	0	0	0	0
Bristol	31,200	87,701	81,206	6	200	139	0	6,994,849
Agg. of the intermediate offices	9,030	135,296	395,697	95	1,067	324	0	1,434,426
North and West	55,864	440,039	476,903	157	1,267	463	0	12,271,972
Pittsburg	0	7,068	311,530	0	0	0	0	2,183,804
Johnstown	11,086	107,164	0	0	0	0	0	1,215,523
Hollidaysburg	36,049	281,787	0	136	6,038	1,200	0	876,112
Northumberland	24,435	1,300,639	678,685	566	4,690	209	32	581,943
Harrisburg	24,278	125,219	371,763	436	2,075	918	118	1,026,548
Portsmouth	20,598	586,165	706,156	30	890	0	124	95,679
Columbia	26,822	400,518	0	262	0	0	0	30,276
Easton	0	0	0	107	0	0	0	26,790,197
Agg. of the intermediate offices	148,013	1,594,883	594,435	516	6,722	280	319	11,620,277
South and East	291,281	4,403,443	2,662,569	2,053	20,415	2,607	593	44,420,559
Total	347,145	4,843,482	3,139,472	2,210	21,682	3,070	593	56,692,331

#### A GENERAL STATEMENT,

Showing the amount of tolls received and the number of boats cleared at the several collectors offices, and also the number of miles travelled by passengers upon the Pennsylvania Canal and Rail way, during the year ending on the 31st of October, 1834.

PLACE OF COLLECTION.	Tolls received.	No. boats cle'd.	Pas'gers. M. trav'ld.
Philadelphia	\$29,239 51	0	1,207,345
Paoli	3,012 59	0	60,358
Downingtown	490 36	0	740
Lancaster	2,086 38	0	76,302
Columbia	10,573 71	388	646,437
Portsmouth	49,149 83	2,427	128,514
Harrisburg	25,079 25	1,834	734,835
Newport	1,959 07	300	4,300
Lewistown	9,992 28	574	20,117
Huntingdon	4,614 83	473	69,301
Hollidaysburg	41,237 45	1,114	104,717
Johnstown	40,749 81	2,265	62,936
Blairsville	5,595 72	359	138,599
Leechburg	3,394 36	266	459
Pittsburg	16,789 93	1,192	499,911
Beaver	729 10	270	20,049
Franklin	436 63	0	0
Liverpool	1,313 58	205	461
Northumberland	11,966 44	1,000	287,930
Berwick	2,203 73	304	692
Easton	39,840 32	2,402	8,350
New Hope	3,243 01	528	4,616
Bristol	12,977 96	2,896	8,722
Columbia outlet lock	21 63		
Portsmouth outlet lock	427 11		
Do. Bridge Swatara	707 94		
Bridge, Duncan's Island	3,453 30		
Aqueduct, Duncan's Island	68 69		
Do. Shaver's ford	9 06		
Do. Jack's narrows	58 00		
Do. Kiskeminetas	197 50		
Do. Pittsburg	1,898 00		
	\$323,535 08	18,767	4,085,191 mil's.

## Document 13. No. 9. Continued.

G. No. 1.—Abstract of answers received from Manufacturers to the queries No. 1 to 40, contained in the Secretary's letter.

Continued from page 366

Questions.	Henry Jordan & Co. Northampton.	Wagner & Brothers, Philadelphia County.	Wistar & Fisher, Philadelphia County.
No. 1, 2 & 3.	Forge. 1829. Water power.	1822. Individual concern. Water power. Cotton works.	Woolen manufactory. Indi- vidual concern. 1810.
4	36,000 dollars.	\$70,000, no part borrowed.	\$35,000 buildings and water power; \$18,000 in machine- ry.
5	Material \$12,000, labor \$10,000.	\$68,129, do do	In 1830, wool \$35,000; dye- stuffs 9,000; wages 12,000, 1831, wool 10,000; dye- stuffs 3,000; wages 4,000.
6	Not over 10 per cent. or 4 on borrowed.	No profit beyond interest from 1828-'30, in 1831 five per cent.	Business has not averaged 6 per cent for several years.
7	Decreased by domestic competition.	General prosperity in 1831.	Fluctuation in price of wool and excess of importa- tions.
8	In this county 10 to 12 per cent.	Supposed better than this.	
9	\$27,000 superior bar iron	Average 180,000 lbs. No. 20 yarn; domestic goods. \$65,625.	10 to 12,000 yards satinets, once \$1 40, now 60 cents per yard.
10	450 tons pigs; 100,000 bushels charcoal.	Foreign articles, indigo, &c. \$3,800.	10 to 100,000 pounds wool, part foreign.
11	Unknown.	Domestic 200,000, \$20,000.	No importation of satinets from Great Britain,
12	75 men, averaging 76 cts. per day.	15 men at \$7, 65 women, boys, and girls, at \$1 50 per week. 268 persons. Hand loom weaving, &c. wages per ann. \$27,000.	Near 300 persons supported by us.
13	10 hours a day all the year	Twelve hours.	Average 12 hours.
14	In this county similar, in others unknown.	Not known.	Wages below mechanics' wages, lower than N. E. 50 to 70 per cent. higher than G. B.
15	40 horses and mules.	One horse.	2 horses and 1 pair oxen.
16	50 tons at the forge, rest at New York.	Philadelphia.	In this country.
17	Best Russia and Swedish.	Affected by prices of fore- ign fabrics.	Affected by foreign fabrics, high price of wool and labor in this country compared to those of England.
18	Northampton, New York, and Connecticut.	United States and South America.	
19	Uncertain.	South America, Asia, and China.	Few exported, and cannot be until price of wool to manu- facturer be reduced.
20	In New York, 4 months' credit.	Principally at 4 months; goods at 6 and 8 months.	
21	Rather decreased.	In 1831 appreciated.	Goods $\frac{1}{2}$ of price 15 years ago; cost decreased, but not in that proportion.
22	Superior quality \$90 ton.	In 1829 and 1830 prices depressed. Improved in 1831; now declining.	
23	30 per cent.	On cotton yarn not less than present duty; on manufac'd. goods, coarse, less sufficient.	Duty adequate if collected without fraud. See at large letter on reducing duty on imported wool.

Continued on next page.

## Document 13.—No. 9.—(Continued.)

Questions.	Henry Jordan & Co. Northampton.	Wagner & Brothers, Philadelphia County.	Wistar & Fisher, Philadel- phia County.
24	We presume not.	No change; present mode judicious.	Duty on coarse wool should be reduced; tariff of 1828 injured the manuf- acturers. 40 per cent with reduc- tion of duty on wool better than 60 without, as wool costs the manufac- turer here 40 to 80 per cent higher than to the European.
26	Wages 12½. materials 58, profit on capital 10 pr. ct.	Material 22 labor 56, dye-stuff 14, profit 8.	
27	\$5,000 grain, pork, hay.	Uncertain.	
28	Unknown.	Unknown.	
29	Give it up at once.	Abandon.	
30	More than half would be lost.	Half capital would be sunk.	
31 & 32	Any other business would be better.		
34		At present capital employ- ed yields no interest ade- quate to the risk; any re- duction of duties would endanger the stability of the business.	

## Document 13. No. 10.

## G. No. 2. Abstract of Answers received, &amp;c. Continued.

Questions.	William P. Jenks & Co. Bucks Co.	Henry Moore, Delaware Co.	J. & J. Riddle, Del. Co.
No. 1, 2, & 2	Cotton-yarn Manufactory. Water power 1824.	Rolling and slitting and nail manufactory. 1809. Individual concern.	Cotton Spinning mill. 1831 Water power.
4	\$25,000 building; 30,000 machinery.	60,000 dollars.	Buildings \$10,000; power 7,000; machinery 16,000.
5	\$33,000.	\$32,000 and wages 7,800 annually.	About 40,000 required.
6		About eight per cent. on whole amount invested.	Very uncertain.
7	Decrease of importations 1829 and 1830.	Domestic competition.	Foreign importations.
8	Unknown.	Believed to be more in other manufactories.	11, 12, and 15 per cent.
9	180,000 lbs. yarn, average 23 cents.	In 1810 100 tons, now 400 tons; nails, price in 1810 10 cents, now 6 cents.	
10	200,000 lbs. cotton.	400 tons bar iron, mostly foreign, last 3 years al- most all American.	180,000 at 10½ cents per lb.
12	17 men at \$6 50; 16 wo- men at \$2; 30 boys at \$1 25; 17 girls at \$1 per week.	26 men employed, and their families dependant.	16 men, 8 to \$10; 20 girls, \$2; and 14 at \$1 to \$1½ per week.
13	11½ hours the year through	12 hours, including meals.	Twelve hours a day.
14	Men and women about same rates; children generally unemployed.	Farming wages something less, except in harvest, but same as other manu- facturing employments.	Same among trades people.
15	Six horses.	Seven horses.	4 or 5 horses for hauling.
16	Philadelphia, 32 miles.	The neighbor'hood and U. S.	Part here, part Philadel.
17	Little foreign competition in yarn.	No foreign competition.	No competition against our yarn being coarse.
18	Principally Philadelphia.	Principally United States.	
19	Small quantities to South America and East Indies.	A few exported to South America and West Indies.	None exported.
20	Average credit 90 days.	At 6 months, or bartered for iron.	Cash and credit.
21	No variation in materials or labor.	Decreased, owing to im- proved use of anthracite.	No variation for 3 years.
22		1810, nails were 10 cents, have been as low as 5½, and are now 6 cents.	26, 25, 24, and 23, same yarn.
23	Present rate considered pro- tection.	Duty ample, perhaps a re- duction of 20 per cent. would not injure.	An addition of 15 per cent. on the existing tariff, would enable us to manu- facture fine yarn.
24		Not any in the article of nails.	

Continued on next page.

## Document 13.—No. 10

## G. No. 2.—Abstract of Answers received, &amp;c.—(Continued.)

Questions.	William P. Jenks & Co. Bucks County.	Henry Moore, Delaware Co.	J. & J. Riddle, Del. Co.
25	Not exceeding 7 per cent.	Business depressed for 3 years, revived last six months, again declining.	Great frauds supposed to be committed along the Canada line.
26	Cotton $\frac{1}{2}$ , wages 7-16, profits 1-16.	Raw materials 4-6, labor 1-6, expenses 1-12.	Cotton \$12 60, labor \$8, expenses 40 cents will make 100 lbs. yarn, worth \$23.
27	Agricultural 21,000; domestic 2,000.	About $\frac{2}{3}$ amount of wages, say \$6,000, in agricultural and domestic.	120 bbls. flour and \$500 per month expended in agricultural and domestic goods.
28	Unknown.		Does not know.
29	Reduction to 12 $\frac{1}{2}$ would cause suspension.	Until anthracite coal be introduced in the smelting of iron ore, our iron master cannot meet English competition if the duty were reduced to 12 $\frac{1}{2}$ pr. ct.	Be forced to abandon.
31 & 32			In that case might go with the Indians over the Mississippi.
35 & 36			Duty should be assessed on the value in America, which would prevent many frauds.

## Document 13.—No. 10.—(Continued )

Questions.	Wm. Darling, Berk's County.	Cardon de Sandran, Dauwain County.
No. 1, 2, & 3.	Furnace, 1793. Water power.	Forges. 1830. Water power.
4	\$42,000. None borrowed.	48,000 dollars.
5	\$25,000. do.	
6	About five per cent.	3,000 dollars per annum.
7	Domestic competition.	Importation of Iron under false denomination.
8	In mercantile 8 to 12 per cent.	200 tons bar.
9	300 tons metal.	300 tons American pig metal.
10	5,000 cords wood, and 2,000 tons ore.	
12	95 men, at \$14 per month. 500 persons dependant.	60 men, averaging \$20 per month.
13	10 hours a day.	Six to ten hours year round.
14	8 to \$12 the highest wages given elsewhere.	Not known.
15	Sixty horses.	30 to 40 mules, 10 oxen.
16	Pigs sold at the works, a part of the castings in Philadelphia.	Philadelphia and Baltimore.
17		Foreign iron sold as old iron scraps.
18	United States, South America and Africa.	Chiefly in Philadelphia and Baltimore.
19		Not exported.
20	Six months.	Six months' Credit.
21	Cost of manufacturing increased from 15 to 25 per cent.	Cost has increased 15 per cent.
22		Average \$2 dollars per ton.
23	Pigs 25, 31, 28. Castings 60, 75, 65.	
24	Duty requisite. A small reduction would have the same effect as the repeal of the whole.	Present duty, and preventing introduction under false names.
25		Very trifling profit.
27	7,000 bushels grain; 22,000 lbs. pork; 15,000 lbs. beef; and domestic cotton goods \$1,600, are consumed yearly at the furnace.	3,000 bushels rye; 1,200 bushels oats; 900 bushels wheat.
29		Be forced to abandon.
30		Hard to tell.
31 & 32		Can't tell.
34		Canals and rail roads increase the circle of competition.

(To be Continued )

From the Philadelphia Gazette.

## PROCEEDINGS OF COUNCILS.

Thursday Evening, Dec. 10th, 1834.

### SELECT COUNCIL.

The President, Mr. Meredith, submitted a communication from the City Commissioners, announcing that 361 houses have been erected in the city proper, during the past year.

M. McCreedy presented a petition from citizens of New Market Ward, praying for the improvement and extension of the Second street market house. Referred to committee on markets.

Mr. Price, from the joint special committee, to whom the subject had been referred, presented the annexed report:

#### *To the Select and Common Councils.*

"The Joint Special Committee, to whom was referred 'An item of unfinished business, consisting of the reports of two several Committees, made to Councils in January, 1833, and in February, 1834, in relation to the salaries of City officers,' request leave to submit their Report,—

That the opinions of the two committees, who have previously reported on this subject, appear to have been unanimous, as to the justice and necessity of an increase in the salaries of the Mayor and other City officers; and the delay on the part of Councils, as to a prompt action thereon, may be attributed, for a year past, rather to a general depression, arising from the state of the times, and a scarcity of money, than to any disposition to reverse those reports.

The present salaries were, generally, fixed in the years 1819 and 1820, a time of much depression in real estate and business, a general fall of prices, and consequent cheapness of living, and have remained since that period without change, although the business of the Corporation has necessarily increased with the improvements and population of the City; and the compensation is now neither adequate to the labour required, nor, it is believed, a moiety equivalent for the sums allowed in 1819–20.

An estimate of the great augmentation of duties thrown upon the City officers, the time requisite for their performance; of the advance of rents, and increased expense of living in every department of domestic economy, during the last fourteen years; and of the salaries allowed in our various public institutions, for similar services, has led your Committee to certain conclusions, which, with the information they have obtained from various sources, they now submit to the consideration of Councils.

The salary of the Mayor, from 1805 to 1816, was \$2,000 per annum; from 1816 to 1819, it was \$3,000; and since then, it has only been \$2,000 per annum.—The duties of the office have unavoidably increased, by the natural growth of the population, and extending of the City since 1819; and latterly, have been rendered still more burthensome, by services required of him in various ordinances for the execution of the Girard Trusts. He has heretofore been entitled to fees as a magistrate, and an impression has prevailed extensively, that these perquisites of office, have been of considerable amount. Your Committee is aware, that during the service of the present incumbent, such impression is erroneous, and therefore deem it preferable to direct such fees to be accounted for, and paid into the City Treasury, and that the salary of the Mayor should be fixed at a definite sum. With this view, they recommend that the Mayor of the City shall receive the sum of \$3,000 per annum, a sum certainly not more than sufficient to compensate the services rendered, and to enable him to defray the expenses necessarily attendant upon the office of the chief magistrate of the City.

The Recorder of the City is appointed by the Governor

of the State. His salary in 1817, was \$1,500, and in 1819, was fixed by an Ordinance of the City, at \$1,250 per annum. Since 1820, he has only received from the Corporation \$600, whilst the State allows him \$900 per annum, making together \$1,500. Your Committee unite in judgment with the two previous Committees, and recommend that he should receive from the City \$1,000 per annum.

The City Treasurer, from 1802 until 1811, received as a salary, a per centage on all moneys received and paid, varying from 2,274 dollars to 3,813 dollars, and averaging, during that period, the sum of 2,768 dollars per annum. An Ordinance was passed December 12, 1811, fixing his salary at 2,500 dollars, and it so continued until 1819, when it was reduced to 2,000 dollars per annum, and has since remained at that rate. In consequence of the increased duties, he has been obliged for several years to procure the assistance of a clerk, whose compensation has been paid out of his own salary, and your Committee propose an allowance of 400 dollars per annum for that object.

The salaries of the Clerks of Councils, in 1797, were 300 dollars per annum; in 1815, an increase to 400 dollars was made; in 1819, reduced to 300 dollars; and in 1824, fixed at the present rate of 350 dollars per annum; but, in consequence of increased duties, a sense of justice has induced Councils, for several years, to pay them an extra allowance of 200 dollars. It is now proposed to fix their salaries at the sums actually paid them, say 550 dollars per annum.

The duties of the Assistant Clerk, or Clerk of Committees, are much more laborious than was anticipated. His afternoons and evenings are constantly employed in an attendance on Standing and Special Committees, whilst the remainder of his time is occupied with the minutes, reports, and notices. The entire time of a competent Secretary, is required for this department, and daily experience confirms the necessity and utility of an appointment, by means of which an accurate record of all the business transacted in the several Standing and Special Committees of Councils, is secured for present use and future reference. A salary of 550 dollars per annum, appears to be a moderate compensation for the duties required.

The Messenger of Councils, since 1815, has received a salary of \$225 per annum; but of late, an extra allowance of \$75 per annum has been granted; and the view of the Committee is to fix his salary at the \$300, actually paid.

In the consideration of this subject, your Committee have duly reflected that they are presenting a subject of much importance to Councils, who, as representatives of the people, and guardians of the public treasury, are bound to avoid any needless expenditure of money, but will be expected to make a reasonable allowance for such services as are required of the City officers. Conforming to these views, your Committee request leave to submit "An Ordinance, fixing the salaries of certain City officers."

RICHARD PRICE, Chairman.  
JOHN WIEGAND,  
DENNIS M'CREDY,  
THOMAS DUNLAP,  
JAMES BURK,  
JOHN DARRAGH,

Committee.

An Ordinance to carry into effect the foregoing views was presented and laid on the table.

Mr. Lippincott from the Finance Committee, to whom had been referred a communication from the City Commissioners in relation to overdrafts of appropriations, made report that the committee have instituted a careful examination into the causes of said overdrafts, and find that they are to be attributed to the heavy expenditures authorized by Councils not contemplated at the time of the annual appropriations. The

city revenue of the present year, will fall short of the receipts of the past year. The principal items of expenditure, which have caused the overdrafts, are, the completion of the stores, sheds, &c. on Schuylkill; wharf and culvert in Arch street, Schuylkill; extension of iron pipes; repair of old water works; Broad street rail road; public squares; new Market house in High street; regulation of unpaved streets, &c., and the payment of \$30,000 borrowed last year from the Girard Fund. The committee, after the examination, were unanimously of opinion, that a loan of \$60,000 would be necessary, and an ordinance to effect such loan was presented at the last meeting of Councils, and adopted. The committee appended a resolution asking to be discharged from the further consideration of the subject, which was agreed to.

Mr. Price, from the committee on Schuylkill Wharves, offered a report and resolution instructing the City Solicitor to make an abatement of rent, equal to \$100 per annum, on the premises on the west side of Schuylkill, leased by the city to Christian Young, in consequence of injury and loss sustained by the operations of the West Philadelphia Canal Company. The resolution was agreed to, and concurred in by Common Council.

Mr. Lippincott rose and stated that it would be remembered by Council, that the committee on lighting and watching, were instructed, some time since, to engage a scientific gentlemen to proceed to Europe, for the purpose of making examinations and inquiries in relation to the manufacture and use of gas. The gentlemen engaged for that service—Mr. Samuel V. Merrick—had returned to the city, and Mr. L. held in his hands a report which had been submitted to the committee as the result of his investigations and researches. Mr. L. in presenting the report, offered a resolution directing 500 copies to be printed in pamphlet form, which was agreed to.

The report is of great length, and would probably occupy seven or eight columns in this paper. It enters fully into the subject of gas, and furnishes many interesting details. The annexed is the concluding page:

"In conclusion I beg leave to suggest, as the result of my examinations on this subject:

First—That all the information which has come to my knowledge, either in this country or Europe, has tended to confirm the opinion that the proposed system of lighting by gas, will be found preferable to any other, as regards economy, safety and convenience.

Second—That a gas manufactory, judiciously constructed, and managed with skill and economy, cannot fail to return a handsome profit to the constructors.

Third—That the art of gas making has so far advanced at this day, as to place within our reach such information as will enable this city to enter into the measure with a feeling of perfect security as to the result.

Fourth—That the objections to the measure and fears expressed by many valued citizens on a former occasion, are either totally groundless or very easily obviated, and that the effects which will be produced by a judicious execution of the measure will be beneficial both in a moral and pecuniary point of view.

Fifth—That the improvements made within a few years past, render it an easy task so to construct the works as to avoid all danger from explosions, or inconvenience from the oppressive nature of the process, or residual matters, connected with the manufacture of gas.

Sixth—That the works be constructed upon a moderate scale, commensurate with the immediate wants of the city, and made complete, and that land sufficient for the increase of the works should be appropriated for their extension, to satisfy the demand in all parts of the city, but that the mains and pipes be laid of such capacity as to ensure their aptitude for an increased demand.

Mr. Price called up for consideration the ordinance  
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from Common Council authorising a reduction of the footway along Broad street, opposite Penn Square.—Mr. P. explained that the object of the bill was to give more space on each side of the rail road in Broad street, for the passage of vehicles, and that the ordinance was presented at this time for the purpose of enabling the committee to remove the trees on the pavement, which can be done with more safety now than at any other season.

Mr. Wetherill said the trees could be removed without the passage of the ordinance.

Mr. Price rejoined that the committee had no authority to make the proposed change without the sanction of Councils.

Mr. Lippincott saw no necessity for the reduction, and alleged that there is as much space between the rail way and the side walks, as there is on each side of the Market house in High street. He was opposed to the ordinance.

Mr. Roach said a few words in favour of the measure. The ayes and nays being called, the bill was negatived as follows—

Ayes—Messrs. Barclay, Price, Roach. Nays—Messrs. Eyre, Keating, Lewis, Lippincott, Meredith, Wetherill.

[When the ordinance was returned to the Common Council, a motion was made by Mr. Gilder, that Council will adhere to the bill, and appoint a committee of conference, to meet a similar committee from Select Council, which motion, after a spirited debate in which Messrs. Gilder and Williams took part, was adopted. The president appointed Messrs. Gilder, Arrison, and Rowland. Select Council concurred, and appointed Messrs. Wetherill, Lippincott, and Lewis.]

Mr. Wetherill in his place, stated to Council that he had received information of a petition presented to the state legislature from Schuylkill county, asking for the incorporation of a company to make a canal, on the west side of Schuylkill, from Fair Mount to Mill Creek, near Gray's Ferry. He said that such a measure would prove highly injurious to the city Water Works, and he conceived it to be the duty of Councils at once to lay a remonstrance before the legislature. He therefore offered a resolution requesting the Presidents of Councils to draw up such remonstrance setting forth the injuries likely to result from said canal, and asking the protection of the legislature against any attempts to injure the works which supply the city with water.

Mr. Wetherill presented a letter from Mr. Graff which entered fully upon the subject, and showed that any waste of water would seriously interfere with the present arrangements.

Mr. Keating was opposed to the resolution, and in favour of referring the whole subject to a special committee, that a detailed report might be presented, which would be more satisfactory to the legislature than a simple remonstrance. After considerable discussion, Mr. Keating's motion was negatived, and the resolution offered by Mr. Wetherill adopted, the ayes and nays being as follows:

Ayes—Messrs. Lewis, Lippincott, Meredith, Price, Wetherill.

Nays—Messrs. Barclay, Eyre, Keating, Roach.  
Common Council concurred.

#### COMMON COUNCIL.

Dr. Paul presented a petition from the present occupants of Chestnut street wharf, asking for a renewal of the lease for ten years. Referred to the committee on Delaware wharves.

Mr. Lancaster presented a petition from the carters in the vicinity of the Drawbridge wharf, praying that said wharf may not be rented for any other purpose than for which it is now occupied. Referred to committee on Delaware wharves.

Mr. Yarnall from the committee to whom was referred the petitions of two of the city watchmen, injured in the discharge of their duty, on the night of the ward

elections, reported a resolution granting to William Osborn one month's wages, and to Robert Johnston two month's wages, in consideration of the time lost during their illness. Adopted and concurred in by Select Council.

Dr. Paul from the committee on the City Hall and State House, made a report in relation to certain proposed improvements in the chamber of the Common Council, accompanied with a resolution making an appropriation for that object. The resolution elicited considerable debate, in which Dr. Paul, Mr. Lancaster, Mr. Chandler, Mr. Wright, Mr. Earp, Mr. Darragh and Mr. Dunlap took part. It was finally adopted. Select Council concurred.

The report of the finance committee, read in Select Council, was taken up and adopted.

On motion of Mr. Fraley it was

Resolved, That a joint special committee be appointed to examine into the general expenditures of the city, and report whether any improvements can be made beneficial to the corporation. The President appointed Messrs. Fraley, Gilder, Yarnall and Chandler, on behalf of the Common Council. Select Council concurred, and appointed Messrs. Wetherill, Eyre, Price, and Barclay.

By special resolution, Friday evening, 26th instant was fixed upon for the next meeting of Council.

From Moore's Philadelphia Price Current.

## PUBLIC SALE OF REAL ESTATE.

(By order of Assignee.)

Sold at public sale, on Thursday, the 27th Nov. at the Philadelphia Exchange, by C. J. Wolbert.

No. 1—A two story brick house, with a two and a half storied brick house in the rear, and lot of ground on the north side of Wharton street, between Front and Second street, 105 feet by 14, \$1,025

No. 2—Four 3 story brick tenements, and the lot of ground, on the south side of Brinton street, east of Thirteenth street, 60 feet by 45, 1,800

No. 3—Four 3 story brick tenements, and the lot of ground, on the east side of Wagner street, 62 by 30, 1,750

By T. B. FREEMAN, Auctioneer.

No. 1—A lot of ground, on the north side of Chestnut street, nearly opposite the U. S. Bank, and adjoining the U. States Hotel on the east; 50 feet 4 inches by 177 feet 4½ inches. \$49,950

No. 2—A lot of ground, on the east side of Delaware Second, between Market and Chestnut streets, 25 feet 1 inch by 161 feet, 15,000

No. 3—A three story brick house, and a lot of ground, on the east side of John street, in the district of Spring Garden, 17 feet by 71 feet 1½ inches, 4,400

No. 4—A four story brick store, on the east side of Spring Garden street, 18 feet by about 51 feet, 4,000

No. 5—A three story brick house in Juniper street, 16 feet by 30, 1,950

No. 6—A house and lot, on the north side of Lombard street, between 11th and 12th, 16 by 141 feet, 2,000

No. 7—A three story brick, and lot of ground, on the east side of Delaware Third, between Vine and Elm streets, 18 feet 10 inches by 90 feet, 4,950

No. 8—A tenement and lot of ground, on the S. side of Vine street, No. 43, between Front and Second streets from Delaware—15 feet 4 inches by 51 feet, 1,450

No. 9—Two three story frame houses, N. W. corner of Jefferson and Second streets, 30 by 121 feet 9 inches, 1,000

We recommend the attention of scientific gentlemen throughout the state to the annexed circular.—The object is important.

## METEOROLOGY.

PHILADELPHIA,

Sir: At a joint meeting of two committees appointed, one by the American Philosophical Society, and one by the Committee of Science and Arts the of the Franklin Institute of the State of Pennsylvania, to confer together on the best means of promoting the advancement of Meteorology, held at the Hall of the Franklin Institute, on the evening of the 9th inst., it was resolved that a sub-committee be appointed to furnish a project for certain simple observations, which may tend to elucidate important points in Meteorology, and which may be at once entered upon by observers in different parts of our country, and also to present a form of circular, to be forwarded to persons who may be considered competent to carry into effect the above objects.

In conformity with this resolution, and as a preliminary to the introduction of a more extended plan, which the joint committees are now maturing, the following circular has been prepared, and is forwarded to you by the committee. The prime object of this circular is to obtain a complete knowledge of all the phenomena accompanying one or more storms of rain and hail, not only where the violence of the storm is felt, but at and beyond its borders, its beginning and its end.

For this purpose you are requested, immediately on receiving this circular, to commence a journal of the weather, noting the direction of the wind at the surface of the earth and in elevated strata, as indicated by the clouds, which may frequently be seen at different elevations, moving in different directions; the upper current of all being at Philadelphia, generally from some western point. Let the strength and direction of the wind, and the appearance of the heavens as to clear or cloudy, and the character of the clouds, according to your own mode of description, be noted at least three times a day, as near the following hours as convenient: 7 A. M.; 2 P. M., and sunset. Let the heavens, however, be examined very often, so that any sudden change may not pass unobserved, especially in the direction of the wind; and when any occurs, let it be noted, with its time, under the general head of "observations."

The plan which we recommend in observing slow moving clouds, is to keep the head steady in one place, with the top of a chimney, or some distant fixed object, between the eye and any remarkable point of the cloud, until this point shall have moved so far from behind the object as to leave no doubt of its direction.

As to upper and lower strata, when one passes under the other, there is an optical deception to be guarded against when the upper one moves with the greatest angular velocity. This deception may generally be avoided by noticing which cloud is obscured by the other as they pass. Sometimes, also, an upper current of air may be detected when there is but one stratum of clouds, if these are of the columnar snowy-topped kind, which are frequently seen in a hot summer day: as these clouds are frequently formed between two currents, their tops will lean in the direction of the upper current, and, indeed, sometimes be blown off and dissipated, in a direction different from the air below.

We also particularly request, that if you hear of any storms occurring in your neighborhood, you will collect all the information concerning them in your power.

Particularly inquire the course of the wind at the commencement of the storm and at its termination; the width of the storm; its direction; its velocity; the direction of the wind at its sides; how the wind veers round—whether in different directions at its sides or not; whether, in case of hail, there are two veins or only one; where there is the greatest fall of rain, near the borders or near the centre of the storm—and whether

this fall takes place near the beginning, middle, or end of the storm; whether the clouds are seen moving with the wind or against it, and whether differently among themselves; and every thing else which you think may tend to an explanation of this most interesting phenomenon.

Let the time of beginning and end of all rains be particularly noted, any change in the strength and direction of the wind during their progress, and the quantity as near as possible. Mark the time of meteors, or shooting stars, and auroras, and if possible, the stars through which they pass. These observations, if made by very many correspondents throughout the United States, will elucidate the main object which the committee has in view in the present circular, and it is hoped greatly assist in giving interest and value to the plan in contemplation. But as many observers may be willing to do more, we will remark that the observations on storms will be much enhanced in value, if accompanied by observations on the "Dew Point:" for it may be, that hurricanes never occur only when the dew point is high.

A very simple as well as accurate method of taking the "Dew point," is, to use a thin tumbler of tin, kept very bright and clean on the outside—and in the summer cold water, and in the winter snow or ice, and if necessary, salt, mingled with water—and when these are not at hand, a mixture of muriate of ammonia and nitrate of potash, in equal quantities, pounded very fine, put into the tumbler with water. By any of these means a temperature may soon be obtained below the "Dew point." When dew settles on the tumbler it must be carefully wiped off, very dry, and the fluid within stirred with a thermometer—and this must be repeated until the fluid is gradually heated up by the air, so that the moisture ceases to settle: the highest temperature at which it will settle is the "Dew point."

For observations of the Dew point to be of any value, however, they must be made constantly, every day at least once a day.

Again, some may be unwilling to take the Dew point, who would be glad to know it may be obtained, approximately, by the following indirect method.

Take two thermometers that agree, or allow for the difference—cover one of them with a wet white rag, and swing them simultaneously in the air, (for it will not do to let them be at rest, unless the wind is blowing fresh;) when it is discovered that they cease to change by swinging, take 103 times their difference, and divide it by the wet-bulb temperature, and subtract the quotient from the temperature of the naked-bulb—the remainder will be the Dew point. This formula is founded on experiments from 20° Fahr. to 80°, and does not differ, at either extreme, from the most careful experiments. We cannot refrain from saying, we are sure that every lover of the science will be richly rewarded for all the pains he may bestow on the Dew point, even independent of the results which will undoubtedly be derived from a comparison of these simultaneous observations.

In conclusion, the committee request that, should your occupations prevent you from attending to the subject yourself, you will find in your vicinity a competent observer to take your place.

Please to forward your observations monthly, to the Joint Committee of the American Philosophical Society and Franklin Institute, care of William Hamilton, Actuary of Franklin Institute, Philadelphia, by mail, when a private conveyance is not at hand.

JAMES P. ESPY,  
Chairman Joint Committee.

GOVERNUR EMERSON, M. D.  
C. N. HANCKER,  
ALEXANDER D. BACRE,  
Com. of Amer. Philosophical Society.

JAMES P. ESPY,  
ALEX. D. BACRE,  
H. D. ROGERS,  
S. C. WALKER,  
P. B. GODDARD, M. D.

Committee of Franklin Institute.

_____	Day.
_____	Hour.
_____	Temperature of Air.
_____	Temperature of Wet-bulb.
_____	Dew point.
_____	Course of Wind.
_____	Lower strata of Clouds.
_____	Middle strata of Clouds.
_____	Upper strata of Clouds.
_____	Strength of Wind.
_____	Weather.
_____	Beginning of Rain.
_____	End of Rain.
_____	Barometer.
OBSERVATIONS.	

From the Advocate.

#### PENNSYLVANIA AND OHIO CANAL.

At a meeting of the Pennsylvania and Ohio Canal Company, convened at Beaver, November 21st, 1834, pursuant to notice, the following members were present, viz: Abner Lacock, Charles Shaler, Thomas Henry, Stephen Stone, John Dickey, Robert Darragh, Hugh Davis, Joseph T. Boyd, Wm. Rayn, Jonathan Sloane, and Leicester King.

The meeting was called to order by Abner Lacock, President of the Board, and in the absence of Benjamin Chew, Jr. Leicester King appointed Secretary.

The object of the meeting having been stated by the President, to be the adoption of energetic measures to effect the speedy construction of a Canal communication between the Pennsylvania and Ohio Canals, through the Mahoning and Beaver valleys; the following resolutions presented by Judge Shaler, were unanimously passed.

1st. Whereas, committees of the Legislatures of Pennsylvania and Ohio, and also the boards of Canal Commissioners of said States, severally recommended to said Legislatures, the construction of said Canal communication, at the expense of the said States, and strongly urged the propriety and importance of retaining the control of said improvements and facilities, to the said states respectively—thereby inducing the belief that said work would be undertaken and completed at the public expense. Therefore—

Resolved, That this company feel disposed to acquiesce in this expression of public opinion, and conditionally to yield up to the said states all the rights and privileges conferred upon them by the provisions of the Charter incorporating said Company—and do hereby

appoint Charles Shaler, Jonathan Sloane, and Leicester King, a committee to draft memorials to the Legislatures of the said States, and present the same to this meeting for their approval, tendering the surrender of their Charter, provided the said Legislature shall each respectively pass the requisite acts at their next session, to secure the speedy accomplishment of the proposed work at the expense of said states so far as the same shall lie within their respective territorial limits.

2d. Resolved, That said committee shall also respectfully urge in said memorials, and earnestly solicit the said Legislatures, in case they should not decide to undertake said work at the public expense, to grant to said Company the following amendments to their present Charter.

1st. To extend the limits and conditions of the 25th section of the Act to incorporate said company, passed by the Legislatures of Ohio, January 10th, 1827, to the 1st of December, 1834.

2d. To strike out the proviso in the 6th section of said act, and insert the following in its stead, to wit: That the net proceeds of the tolls and charges thus fixed, regulated and secured, by said act to said corporation, shall at no time exceed twenty per centum per annum on the capital stock of said company, or the highest rate of tolls and duties, with the charges of freight to which property of a similar kind is subjected as the cost of transportation on the Ohio Canal during the same period of time, and for such other amendments as to them shall seem equitable and right.

On motion, Resolved, That the President of said company shall be authorized to cause books to be opened for the subscriptions to the capital stock of said company, under such regulations and conditions as he shall deem proper, at any time after the first day of March next, at the following places, and under the charge of the following persons.

At the Exchange in Philadelphia, under charge of Thomas Biddle, Wm. Boyd, Benjamin Chew, Jr. John S. Riddle, and George Handy.

At the Mansion House in Pittsburg, under charge of Charles Shaler, Hugh Davis, Wm. Bell, Jr. Jacob Forsyth, and Michael Allen.

At the house of Samuel McClure, in Beaver, under the charge of Robert Darragh, John Dickey, Stephen Stone, Thomas Henry, and John R. Shannon.

At the house of Joseph T. Boyd, in New Castle, under the charge of Joseph T. Boyd, and John Fisher.

At the house of James L. Van Gorden, in Warren, under the care of Simon Perkins, Zalmon Fitch, and L. King.

At the house of D. S. Morly, in Youngstown, under the care of William Rayen and Henry Manning.

At the house of William Coolman, Jr. Ravenna, under the care of Jonathan Sloane, Seth Day, and Joseph Lyman.

At the house of Samuel Newton, in Middlebury, under care of Eliakim Crosby, Gregory Powers, and Roswell Kent.

At the Mansion House in Cleveland, under the charge of Leonard Case, and John A. Allen.

On motion, ordered that this meeting do now adjourn, to meet at 7 o'clock this evening.

7 o'clock, P. M.

The board met pursuant to adjournment.

Mr. Shaler from the committee to draft memorials to the Legislatures of Pennsylvania and Ohio, reported the following, which was read and unanimously adopted.

*Your memorialists respectfully represent,* That by an act of the Legislature of the State of Ohio, passed on the 10th day of January, 1827, they and their associates were incorporated under the name of the Pennsylvania and Ohio Canal Company. That since the passing of said act of incorporation, the Company has held various meetings, and been at great expense in making prepa-

rations for carrying into effect the object of their incorporation, and in causing surveys and estimates to be made, for the purpose of giving information to the public before opening books for the subscription of stock.

They further represent that, for a long time after the passing of this act of incorporation, it was a matter of doubt on which route the State of Pennsylvania intended to continue the Grand Pennsylvania Canal to Lake Erie, and that until that matter was fully determined, it was impracticable for this Company to locate their line of Canal in Pennsylvania, or to give any information to the public as to the point of junction with the Pennsylvania Canal; that, owing to this difficulty it was impossible for your memorialists to form any estimate as to the probable cost of the improvements contemplated by their charter, or as to the extent of the canal line after it crossed the State boundary. The Legislature is well aware that there is a difference of thirty miles in extent between the point at which the Canal Commissioners of Pennsylvania finally determined the junction should be made, and that at which the contemplated canal would have been joined with the Pennsylvania canal, had the latter terminated at Beaver, and the difference in expense would have exceeded half a million of dollars. Your memorialists were induced, for the reasons mentioned, and from the doubts entertained by the friends of the contemplated improvement, as to the practicability of raising funds sufficient to complete it in the peculiar moneyed exigencies of the country, to postpone opening books for the subscription of stock.

The term within which the completion of the Canal was limited by the charter, has now nearly expired—the two years which would remain to us after the 14th of April next, would be totally insufficient for the construction of the important line of Canal in contemplation, and if books were now to be opened, the fear that the time might not be extended would deter those from subscribing, who, otherwise, would be willing to embark capital in the project.

Your memorialists are therefore instructed to ask of the Legislature an extension of time for the completion of the canal for ten years from the — day of December next.

In endeavoring to procure the aid of capital for the completion of this work, your memorialists have here met with an objection which has formed and will still continue to form an imposing obstacle with those who are anxious not only for a secure investment, but for a certain profit on their capital.

By a proviso in the sixth section of the charter, it is enacted that the tolls and charges fixed, regulated, and received by the corporation, shall at no time exceed the highest rates of tolls and duties, together with the charges of freight, to which property of a similar kind is subjected, as the cost of transportation on the Ohio canal, or on the western section of the Pennsylvania canal, during the same period of time. The Legislature will readily perceive that in the reduction of tolls and charges on the State Canal rendered necessary by prudence, or on their total abolition, which may hereafter become a measure of policy, the capital expended by the company in making a canal, the tolls on which would be subject to similar reduction or abolition, might become totally valueless. It is true that such changes in the State tolls and charges are not likely to occur in point of fact, but this is not a reason that will operate with moneyed men, who require the most ample security for their investments; and are undoubtedly entitled to it in those instances where their capital is expended in works of extensive public utility.

Your memorialists would respectfully request an alteration of their charter in this particular, and would suggest the striking out the obnoxious provision, and introducing a proviso similar to that to be found in the sixth section of the charter granted by the Legislature of Ohio, at the session of 1828, to the Sandy and Beaver Canal Company.

Your memorialists cannot doubt the willingness of the Legislature of Ohio to place them upon a footing as eligible as that of any other company, incorporated for the purpose of internal improvement, nor will they permit themselves to question that the same liberal views are entertained by the present legislature as were manifested by the last, in the grant to the company referred to.

Your memorialists are fully impressed with the belief, that should the Legislature grant the extension and the amendments now prayed for, the stock of the Pennsylvania and Ohio Canal Company would be taken without delay, and the work be put under contract before the month of July next.

It is hardly necessary to press upon an intelligent Legislature the importance of a work connecting the grand lines of communication running through the states of Ohio and Pennsylvania, thereby conferring each upon the other the benefits of their respective improvements, in inland navigation.

Your memorialists ask leave further to represent, that so intense is the public anxiety to see this grand junction canal completed, that a very strong impression prevails that the state of Ohio and the commonwealth of Pennsylvania would be willing to undertake and complete this vast improvement within their respective boundaries, were it not for the obstacle interposed by the charter granted to your memorialists. In order to obviate any difficulty arising from this circumstance, your memorialists pledge themselves to the Legislatures, by whom their charter has been granted, that they stand ready to surrender their charter to either State that may be disposed to undertake the construction of the contemplated canal, within her boundaries, upon the sole condition that an immediate appropriation be made for the commencement of the work, and the faith of such state be pledged for its completion within a reasonable time. Upon such legislative action upon the subject being notified to the President of the Company, the charter will be surrendered in any manner indicated by the wisdom of the Legislature.

All which is respectfully submitted.

Resolved, That the President of this Board be requested to forward a copy of these proceedings to the Board of Trade of Philadelphia.

Resolved, That the proceedings of this meeting be published in all the papers in Pennsylvania and Ohio, friendly to the system of internal improvement.

ABNER LACOCK, President.

Attest—LEICESTER KING, Secretary.

From the Pittsburg Gazette.

#### THE FORKS OF THE MONONGAHELA.

The following account of the occurrences at this place, on the 17th of April 1754, is taken from the second volume of Spark's Life and writings of Washington. It consists first of an extract of a letter from Washington to Governor Dinwiddie, and a note annexed by Mr. Sparks. These occurrences, though trifling in themselves, assumed greater importance and deeper interest from the circumstance that they formed the first acts of hostility in that memorable war, in which Britons and Americans last marched together to battle and in which French power was forever annihilated in North America.

"WILL'S CREEK, 25 April, 1754.

"Sir—Captain Trent's ensign, Mr. Ward, has this day arrived from the Fork of the Monongahela, and brings the disagreeable account, that the fort, on the 17th inst, was surrendered at the summons of Mons. Contrecoeur to a body of French, consisting of upwards of one thousand men, who came from Venango with eighteen pieces of canon, sixty batteaux, and three hundred canoes. They gave him liberty to bring off

all his men and working tools, which he accordingly did the same day.\*

Immediately upon this information, I called a council of war, to advise on proper measures to be taken in this exigency. A copy of their resolves, with the proceedings, I herewith enclose by the bearer, whom I have continued express to your Honor for more minute intelligence.

\* "The position occupied by Capt. Trent's men was at the junction of the Monongahela and Allegheny rivers, (now Pittsburg,) which had been visited by Major Washington on his mission from the governor of Virginia to the French, and which he described in his journal as well situated for a fort. The Ohio Company had already a small establishment there. When Contrecoeur appeared before the fort, very little progress had been made in the work. Capt. Trent was absent at Will's Creek, and Lieut. Frazier was at his residence ten miles distant. Ensign Ward, therefore, was left in the command. His whole number of men amounted to only forty-one.

Contrecoeur approached within a short distance of the fort, halted his troops, and sent in an officer with a summons, allowing Ensign Ward an hour to consider the subject, and directing him then to repair to the French camp with his determination. He immediately counselled with the Indians, and the Half King advised him to inform the French, that he has not an officer of rank, nor invested with power to answer their demands and to request them to wait the arrival of the chief commander. He went accordingly with this reply to the French camp, accompanied by the Half King; but Contrecoeur refused to wait, and demanded an immediate decision, saying that he should otherwise take possession of the fort by force. Hereupon a capitulation was agreed to, and Ensign Ward marched off his men the next day, and ascended the Monongahela to the mouth of Redstone creek. Contrecoeur invited him to supper the evening of the capitulation, and treated him with much civility.

A full narrative of the particulars was given under oath by Ensign Ward to Governor Dinwiddie, who communicated it to the English Government. The original is now in the Plantation Office, where it was examined by the Editor. This seizure of a post by a military force was considered at the time, as the first overt act of hostility in the memorable war which followed, and which raged for seven years both in Europe and America.

#### REPORT OF THE STATE TREASURER.

Report of the State Treasurer, upon the Finances of the Commonwealth.—Read in House of Representatives, December 9, 1834.

To the Honorable the Senate and House of Representatives of the Commonwealth of Pennsylvania.

Gentlemen.—In obedience to the provisions of an act of Assembly, requiring the State Treasurer to make an annual report on the subject of finance, passed 16th March, 1832, the following report is respectfully submitted.

In preparing this report, the State Treasurer, as on former occasions, has confined it to those subjects connected with the condition of the treasury and finances of the State, necessary to support the faith and credit of the Commonwealth; respectfully referring the Legislature for detailed exhibits of the financial operations of the government to the several reports of the Auditor General, the Commissioners of the Internal Improvement fund, Canal Commissioners, and the printed report of the State Treasurer, which are required by law to be made to the Legislature.

1. Of the public debt, &c.

Loans not pertaining to canals and rail road purposes, \$1,840,000 00

Debts due by appropriations to miscellaneous objects,	358,243 73
Union Canal stock, per act of 1833,	200,000 00
Loan to Eastern Penitentiary, per act of 28th March, 1831,	120,000 00
	<u>\$2,518,243 73</u>
Debt pertaining to internal improvement by canal and rail roads,	21,005,003 32
	<u>\$23,523,247 05</u>

## II. Of the public property of the State, viz.

Bank Stock,	\$2,198,700 00
Turnpike and bridge stock,	2,116,605 19
Canal and navigation stock,	410,000 00
	<u>\$5,067,105 19</u>
To which may be added the value of the public works, canals and rail roads, which may be safely estimated at their cost,	21,005,003 32
	<u>\$26,062,108 51</u>

## III. Of the receipts and payments for the construction and repairs of canals and rail roads, and payment of damages, for the financial year, 1834, viz.

*Receipts.*

Balance of permanent loan per act of 16th of February, 1833,	\$1,229,354 44
Temporary loan per act of 27th January, 1834,	300,000 00
Refunded by the commissioners of the internal improvement fund, per act of 23d December, 1833,	100,000 00
Part of permanent loan per act of 5th April, 1834,	2,000,000 09
	<u>\$3,629,354 44</u>

## IV. Payments for the construction and repairs of canals and rail roads, and for the payment of damages for the fiscal year 1834, viz.

Paid the commissioners of the internal improvement fund, balance of loan per act of 16th February, 1833,	\$1,229,354 44
Do. Temporary loan per act of 27th January, 1834,	300,000 00
Do. Out of the State Treasury, per act of 23d December, 1833,	100,000 00
Do. Part of permanent loan, per act of 5th April, 1834,	2,000,000 00
	<u>\$3,629,354 44</u>

This sum was applied by the commissioners of the internal improvement fund, to refund the State Treasury \$100,000 00, temporarily appropriated to the repairs of the public works, per act of 23d December, 1833, to pay the temporary loan, per act of 27th January, 1834, and the residue \$3,229,354 44, was transferred to the Treasury of the board of Canal Commissioners, for the purposes of the construction and repairs of canals and rail roads and for the payment of damages.

As a statement in detail, showing the application of the funds appropriated to the purposes of internal improvement, will be given by the board of canal commissioners, in their annual report to the Legislature, it is deemed unnecessary to be introduced into this report.

## V. Of the public revenue and expenditures for the financial year 1834, not pertaining to internal improvement, by canals and rail roads, viz:

*Receipts.*

Premium on the balance

of the permanent loan of 16th February, 1833,	\$69,373 39
Do. per act of 5th April, 1834,	85,900 00
Ordinary and miscellaneous revenue,	1,092,120 22
	<u>\$1,247,393 61</u>
Balance in the Treasury at the end of the fiscal year 1833,	367,423 30
	<u>\$1,614,816 91</u>
Amounting in the aggregate to <i>Disbursements for 1834.</i>	

Paid the commissioners of the internal improvement fund, to pay interest on the public debt for canals and rail roads, and to pay salaries of toll collectors and lock keepers,	\$919,060 84
To pay interest on the public debt not pertaining to canal and rail roads	163,925 00
Ordinary expenses of Government, including appropriations to miscellaneous objects	537,738 87
	<u>\$1,560,724 71</u>

Balance in the Treasury at the end of fiscal year 1834, (See Statement A.)	54,092 20
	<u>\$1,614,816 91</u>

## VI. Estimated receipts and expenditures at the State Treasury during the financial year ending 31st October, 1835, exclusive of future loans, premiums on future loans, appropriations which may be made to miscellaneous objects, and exclusive of the balance of the appropriation for the purposes of internal improvement, per act of 5th April, 1834, not called for during the last year, amounting to \$265,400 00. (See Statement B.)

*Receipts.*

Premiums on balance of loan of 1834	\$13,349 62
Canal tolls,	700,000 00
Ordinary and miscellaneous revenue,	939,800 00
	<u>\$1,653,149 62</u>
Balance in the Treasury, 31st October, 1834,	54,092 20
	<u>\$1,707,241 82</u>

Aggregate amount of estimated receipts, *Estimated Expenditures.*

To pay interest on debt pertaining to canals and rail roads, and salaries of collectors and lock-keepers,	\$1,084,384 90
To pay interest on loans not pertaining to canals and rail roads,	105,000 00
To refund the canal treasury, balance of the amount taken to pay interest 1st August last, per act of 5th April, 1834,	50,000 00
To pay appropriations to miscellaneous objects—See statement C.	64,052 54

Ordinary expenses of government,	298,000 00	
		1,602,437 44
Balance in the Treasury 1st November, 1834,		105,804 38
		\$1,707,241 82

Statement C. appended to this report, exhibits the appropriations and balances of appropriations to miscellaneous objects, and estimates of the probable amount of those appropriations which will be required during the current year.

The appropriation to common schools by an act of the last Legislature, is embraced in statement C. appended to this report, but there having been no definite action by the people throughout the Commonwealth in relation to this law, or any knowledge of how far its provisions would be accepted by the several school districts, when the estimates for the current year were made, the State Treasurer has been unable to form any judgment on which reliance could be placed of the amount likely to be required. Satisfactory information however, on this point will no doubt be furnished by the Secretary of the Commonwealth, in his annual report to the Legislature as superintendent of public schools.

From causes unanticipated, and which could not be foreseen, the receipts into the Treasury for the last fiscal year, from several of the principal sources of the revenues of the State, have fallen materially below the estimates presented in the last report of the State Treasurer, and much below the receipts of previous years.

The failure of the Messrs. Allens, takers of the loan of 1833, to comply with their contracts, occasioned as they alleged, by the severe pressure on the money market, has produced a deficiency in the estimated receipts from premiums on loans of \$96,712 39.

The receipts from patenting lands have fallen greatly short of the estimate, for the past year, and exhibits a decrease of about \$40,000, compared with the average receipts from this source for the last ten years.

The reduction of the compound interest by a late law, has, no doubt, had its effect in curtailing the revenue derived from this source, and the agitation of the question, without any decisive action by the legislature at its last session, to reduce the price of poor unpatented land, has rendered the proprietors of lands of this description, backward in making their payments. The estimate for the current year is about \$30,000 below the average receipts for the last ten years.

In addition to the causes assigned by the State Treasurer in his report to the last legislature, for the failure of the revenue derived from auction duties, may be added the recent derangement in the moneyed concerns of the country, producing an unusual inactivity in commercial and manufacturing pursuits, it being a business, the extent of which, is more immediately affected by the state of the money market, than that of any other commercial operation; the present estimate is founded on the average receipts for the last three years.

The Philadelphia Bank in consequence of the robbery recently committed on that institution, did not make its usual dividend last year, which produced a diminution in the estimate of revenue derived from dividends on bank stock, amounting to \$12,469 00. Not anticipating a similar occurrence during the present year, this item has been estimated at an amount corresponding with the usual receipts from this source of revenue, which have been subject to no material variation.

The revenue derived from tax on bank dividends during the last year, exceeded the estimate \$24,148 12, showing a material increase beyond that of former years, this result it is believed has arisen from causes which are not permanent, and the estimate therefore, for the present year has been predicated on the usual receipts from this source, allowing a reasonable in-

crease for new banks, which will declare dividends, upon which this tax is assessed.

The estimate of revenue derived from store and tavern licenses have been substantially borne out by the receipts of the last year.

By an act passed at the last session of the Legislature, which went into operation on the 1st of September last, the revenues of the commonwealth are directed to be paid into the State Treasury semi-annually on the 10th of July and 2d Tuesday of December, the operation of this law, will cause the revenues of the last year, derived from store and tavern licenses, together with that which will be collected previously to the 10th of July next, to be paid into the State Treasury during the current year; upon this supposition is founded the advance on the estimate of those revenues, for the present fiscal year.

The law last referred to, changed the time of the payment of the revenues derived from direct taxation into the State Treasury, from the 10th of September to the 2d Tuesday of December—a period beyond the termination of the last fiscal year—which no doubt produced the failure in those revenues for the last year, and which will produce a corresponding increase for the present year. Upon this fact, and the same law compelling semi-annual payments of revenue into the State Treasury, is founded the advance on the estimates derived from these sources for the current year.

The revenue received from tolls at the Treasury, during the last fiscal year, amounted to \$309,789 15, to which, when \$13,745 93 (the amount in the hands of collectors at the close of the year,) is added, exhibits an aggregate amount of receipts of \$323,535 08, falling below the estimate of last year, \$176,464 92; and as this deficiency may be regarded as excessive, it becomes the duty of the State Treasurer briefly to advert to the causes which, in his opinion, have produced this unfavorable result.

The duty assigned to the State Treasurer, by the act of the 26th March, 1832, involves no other responsibility than that of presenting his own views of the financial concerns of the State, and which he has always made it his duty to accompany with the reasons on which they are founded. They are submitted to the Legislature for its action and revision, and whenever founded in error, are open to correction.

In making up the estimates of receipts of tolls on the canals and rail roads, presented in the last annual report, the data were exhibited from which the results were anticipated. The failure to produce the amount of tolls then estimated, admits of explanation, which it is his duty to make, as well to preserve confidence in the estimates now presented, as to exonerate him from the charge of a disposition to exaggerate the productiveness of the public works, with a view to mislead the public mind.

At the time the last estimate of the amount of tolls from the public works was presented to the Legislature, he could not have anticipated the derangement of the moneyed concerns of the country, which subsequently occurred, and which was most severe when business is most usually active, giving a check to commercial operations, which continued for a considerable time afterwards. Additional causes operated to disappoint the well-grounded calculations of the amount of tolls to be realized, in the estimate then submitted: It will be found, on reference to the Treasurer's report made at the last session, that the estimate of the receipts from tolls was mainly based on the fact, that there would be open in the spring of 1834, and in active operation, an entire line of communication between Philadelphia and Pittsburgh, for the transit of produce and merchandise; and that by the completion of a single track of the Columbia rail road, at the commencement of the season, a great increase of tolls would arise from this important section of the public improvements. A single track of the Columbia rail road was completed at the opening of

the spring—but in order to comply with the law passed at the last session of the Legislature, to complete the second track, it was found necessary, to accomplish its speedy completion, to permit contractors and workmen to use the first, to transport the materials necessary to complete the second track, which produced so great an interruption to any travel on this road, that individuals and companies were discouraged from embarking in the business of transportation until the season was considerably advanced. From this cause there has arisen a failure on this portion of the public works to produce the amount of tolls estimated to be derived from it during the last year. A single track of rail road was ready for travel on the Allegheny portage, at an early period of the last session. The important fact, so long a subject of doubt and speculation by many, was triumphantly established—of the decided superiority of this line of communication for the transit of goods and merchandise between the east and west: and goods were delivered through it from Philadelphia to Louisville, and other remote places on the Ohio, in a much shorter time than had ever before been accomplished, through the means of any other communication. So satisfactory and complete was this demonstration, that, at an early period of the navigation, a direction was given to a greater quantity of goods and merchandise than there existed the necessary means and facilities of transporting across the portage summit. Want of cars for the rail road transportation, and a sufficient number of boats on the western side of the navigation, produced delays and disappointments in the delivery of goods; and, from an apprehension that these causes would continue to exist, a different direction was given to the conveyance of a large quantity of merchandise, which had been destined to pass by this route; and the business in the early part of the spring, was, from these causes, greatly curtailed. But the most prominent cause which operated to reduce the business on this route, was the extreme lowness of the Ohio at Pittsburg, extending from early in July till November, causing an interruption of this great outlet an unprecedented length of time. In consequence of this interruption in the navigation of the Ohio, a large amount of merchandise, which had been destined to be transported by the Pennsylvania line, was transferred to other channels.

Notwithstanding the failure of this line of communication to realize the amount of tolls estimated for the past year, from the causes stated, its partial operations have established its decided superiority, as the safest, most expeditious, and the cheapest conveyance for products and merchandise between the eastern and western waters.

The experiment of the past season has so satisfactorily established this superiority, that arrangements are now making to provide all the necessary appliances to secure the most extensive transportation for the ensuing season. The companies now existing will be prepared to double their present means for carrying goods, and other associations are forming to multiply and accelerate the transportation on this great thoroughfare.

The business on the Branch canals has been more limited than was anticipated. The state of the times, no doubt, having had its influence in reducing the business on them. The navigation of the North Branch was interrupted by the repairs of the Nanticoke dam; and the West Branch canal was not prepared for navigation to its point of destination, until an advanced period of the season, and was not brought within the reach of the extensive operations contemplated by the Lycoming coal company.

Far as the receipts from all the public improvements have fallen below the estimates of the last year, they have considerably more than doubled the receipts from the same sources the preceding year; and but for the causes assigned, they would have fully realized the estimate made of them.

A comparison of the progressive increase of the tolls, from the public works of this state, with the New York

canals, augurs the most favorable results to our improvements, and exhibits a gradual productiveness fully equal to the New York canals, as will appear by the following tabular statement:

<i>Pennsylvania canals and rail roads.</i>				<i>New York canals.</i>			
1830	1st year	\$27,012	90	1st year	1820	5,437	84
1831	2 "	38,241	20	2 "	1821	14,388	47
1832	3 "	50,909	57	3 "	1822	64,072	40
1833	4 "	151,419	69	4 "	1823	152,958	33
1834	5 "	309,789	15	5 "	1824	340,761	07
				6 "	1825	566,112	97
				7 "	1826	762,003	60
				8 "	1827	859,058	48
				9 "	1828	838,407	28
				10 "	1829	795,054	52
				11 "	1830	1,033,559	13
				12 "	1831	1,194,601	49
				13 "	1832	1,195,804	23
				14 "	1833	1,422,695	22

The report of the canal commissioners will furnish more in detail, the reasons which have been referred to by the State Treasurer, explanatory of the failure of the canals and rail roads to make good the receipts of tolls for the past year, and will confirm the ground on which, under all circumstances, the State Treasurer feels warranted in estimating the receipts from them during the current year at \$700,000 00, an estimate sanctioned by the joint judgment of the canal commissioners, and commissioners of the internal improvement fund.

There will fall due on the 1st of May next, \$60,000 of the permanent loan of 1826, taken by the bank of Montgomery county, redeemable at the expiration of its charter; and as the payment of permanent loans has never been considered in the nature of the ordinary demands on the Treasury; but payable at maturity, by legislative authority and by means especially provided, the payment of this loan has not been embraced in the estimated expenditures of the current year.

By the law under which this report is made, the State Treasurer is required to suggest plans of revenue which may be necessary to sustain the faith and credit of the state; and as in consequence of the unprecedented pressure upon the Treasury during the last year, arising from the extensive failure in several of the important revenues of the state, and the unusually large amount of appropriations to special objects which were required, which has tended materially to diminish the resources of the state for the present year, it would appear to be inexpedient to subject the ordinary revenues to the payment of the loan falling due in May next.—The State Treasurer would therefore respectfully suggest the adoption of the course which has been heretofore pursued, under similar circumstances, viz: To authorize a new loan to be applied to its liquidation; or should this plan be deemed inadvisable, to require the several banks whose charters have been recently extended, to pay the "bonus or premium," which the state has reserved the right to exact, as a consideration for the privileges granted, and to which they will be subject during the current fiscal year, and if the amount exacted from other banks for similar privileges, be made the standard, a greater amount than is necessary to pay this loan, it is believed may be realized from this source.

The estimated condition of the Treasury on the 1st of February and August next, the periods fixed for the semi-annual payment of interest on the public debt, will be found in the report of the commissioners of the internal improvement fund, in which plans are suggested to meet probable deficiencies, which may occur at those periods during the current year; and are consequently deemed unnecessary to be introduced in this report; to which the Legislature are respectfully referred.

All which is respectfully submitted. A. MAHON,

December 8, 1834. State Treasurer.

(Tabular statements next week.)

# HAZARD'S REGISTER OF PENNSYLVANIA.

DEVOTED TO THE PRESERVATION OF EVERY KIND OF USEFUL INFORMATION RESPECTING THE STATE.

EDITED BY SAMUEL HAZARD.

VOL. XIV.—NO. 26. PHILADELPHIA, DECEMBER 29, 1834. NO. 364.

## STATEMENT A.

*Receipts and Payments at the Treasury Office of Pennsylvania, during the fiscal year ending 31st October, 1834.*

(Continued from page 400.)

### RECEIPTS.

Loan per act of 16th February, 1833,	\$1,229,354 44	
" " 5th April 1834,	2,000,000 00	
		\$3,229,354 44
Temporary loan 27th January, 1834,	300,000 00	
Refunded by the commissioners of the internal improvement fund, per act of 23d December, 1833,	100,000 00	
		400,000 00
Premiums on loans of 1833,	69,373 39	
Do. 1834,	85,900 00	
Auction commissions,	12,300 00	
" duties,	63,416 71	
Bank bonuses,	42,506 17	
Canal and rail road tolls,	309,789 15	
Collateral inheritances,	17,187 46	
Dividends on bank stock,	127,531 00	
Dividends on bridge, turnpike and navigation stock,	24,978 67	
Escheats,	989 61	
Fees of the Secretary's office	665 70	
Hawkers' and pedlers' licenses;	3,273 56	
Increase of county rates and levies,	190,910 72	
Tax on personal property,	27,508 32	
Land and Land office fees,	33,707 92	
Militia and exempt fines,	1,160 70	
Pamphlet laws,	115 63	
Old debts and miscellaneous,	1,902 49	
Tax on bank dividends,	74,148 12	
Tax on certain offices,	11,216 30	
Tax on writs, &c.	24,203 34	
Tavern licenses,	53,223 57	
Retailers' licenses,	65,632 17	
Tin and clock pedlers,	2,122 76	
Tax on coal companies,	1,437 60	
State maps,	192 54	
		1,247,393 61
	4,876,748 05	
	367,423 30	
		\$5,244,171 35
Balance on hand, 31st Oct. 1833,		

### PAYMENTS.

Internal improvement fund for construction of canal and rail road, viz.	
Loan of 16th February, 1833,	\$1,229,354 44
" 5th April, 1834,	2,000,000 00
	\$3,229,354 44

### Internal improvement fund—

Temporary loan per act of 27th January, 1834.	300,000 00	
Advanced out of the Treasury, per act of 23d December, 1833,	100,000 00	
		400,000 00
Ditto to pay interest, toll collectors, lock keepers, &c.	919,060 84	
Turnpike roads, state roads, bridges, &c.	49,740 95	
Expenses of Government,	227,187 46	
Militia expenses,	21,075 87	
Pensions and gratuities,	25,613 78	
Education,	40,590 43	
House of Refuge,	5,000 00	
Interest on loans not pertaining to canals and rail roads,	103,925 00	
Pennsylvania claimants,	2,144 90	
Eastern penitentiary,	84,622 91	
Western do.	64,111 75	
Conveying convicts and fugitives,	2,459 60	
Defence of this State,	40 00	
Miscellaneous,	15,151 22	

\$1,560,724 71

5,190,079 15

Balance in Treasury, 31st Oct. 1834. 54,092 20

\$5,244,171 35

## STATEMENT B.

*Estimate of Receipts and Payments at the Treasury of Pennsylvania, for the year ending 31st October, 1835.*

### RECEIPTS.

Balance of loan per act of 5th April, 1834,	\$265,400 00
Premium on balance of loan of 1834,	\$13,349 62
Auction commissions,	12,000 00
" duties,	80,000 00
Bank bonuses;	52,500 00
Canal and rail road tolls,	700,000 00
Collateral inheritances,	30,000 00
Dividends on bank stock,	140,000 00
Dividends on bridge, turnpike and navigation stock,	25,000 00
Escheats,	1,000 00
Fees of the Secretary's office,	600 00
Hawkers' and pedlers' licenses,	3,000 00
Increase of county rates and levies,	220,000 00
Tax on personal property,	60,000 00
Lands and Land office	

fees,	40,000 00
Militia and exempt fines,	1,400 00
Pamphlet laws,	100 00
Old debt and miscellaneous,	5,000 00
Tax on bank dividends,	55,000 00
Tax on certain offices,	13,000 00
Tax on writs, &c.,	24,000 00
Tavern licenses,	80,000 00
Retailers' licenses,	95,000 00
Tin and clock peddlers' licenses,	2,000 00
State maps,	200 00
	<u>\$1,653,149 62</u>
	1,918,549 62
Balance in the Treasury, 31st Oct. 1834,	54,092 20
	<u>\$1,972,641 82</u>

## PAYMENTS.

Canals and rail roads, balance of loan of 1834,	\$265,400 00
Commissioners of the internal improvement fund, to pay interest, salaries of collectors, lock keepers, &c.	\$1,084,384 90
Turnpikes, bridges, &c.	14,052 54
Expenses of Government,	225,000 00
Militia expenses,	21,000 00
Pensions and gratuities,	38,000 00
Education,	16,000 00
House of Refuge,	5,000 00
Eastern penitentiary.	10,000 00
Interest on loans not pertaining to canals and rail roads,	105,000 00
Conveying convicts and fugitives,	2,000 00
Miscellaneous,	12,000 00
Pennsylvania Institution for instructing the blind,	19,000 00
To refund canal treasury balance of amount taken to pay interest on the 1st of August last, per act of 15th April, 1834,	50,000 00
	<u>\$1,601,437 44</u>
	1,866,837 44
Balance in the Treasury, 31st Oct. 1835,	105,804 38
	<u>\$1,972,641 82</u>

## STATEMENT C.

*Appropriations and balances of appropriations unpaid, 1st November, 1834, with an estimate of the amount likely to be called for during the year 1835.*

## TURNPIKES.

	Amount appropriated.	Est. of Am't. likely to be called for.
Lycoming and Potter turnpike road,	\$1,956 59	\$1,956 59
York and Gettysburg,	6 09	
Downingtown, Ephrata and Harrisburg,	69 63	
Huntingdon, Cambria and Indiana,	25 95	
Philadelphia, Brandywine, and New London,	12,500 00	
Washington and Pittsburg,	33 67	
Chambersburg & Bedford,	118 22	

	Amount appropriated	Est. of Am't. likely to be called for.
Harrisburg and Millerstown,	300 50	
Little Conestoga,	22 04	
Derrystown and Northumberland,	4,607 50	
Milesburg and Smethport,	2,373 45	2,373 45
Gettysburg & Hagerstown,	20,000 00	
Abington and Waterford turnpike road, \$2,000 appropriated, but not more than \$1,222 50 to be paid in one year, (act of 20th March, 1834,)	3,777 50	1,222 50
Warren and Ridgeway turnpike road, \$5,000 appropriated per act of 9th April, 1834, but not more than \$2,500 to be paid in any one year,	5,000 00	2,500 00
	<u>50,791 14</u>	<u>8,052 54</u>

## BRIDGES.

Juniata bridge,	1,000 00	
Columbia bridge,	50,000 00	
Bridge over Ten Mile creek, per act of 1833,	1,000 00	1,000 00
Monongahela bridge at Williamsport, per act of 1832,	15,000 00	
Towanda bridge, per act of 1833,	10,000 00	5,000 00
	<u>77,000 00</u>	<u>6,000 00</u>

## EDUCATION.

Jefferson college,	2,000 00	2,000 00
Washington college, appropriation per act of 1834, \$1,000 per annum for three years,	3,000 00	1,000 00
Deaf and dumb institution, not to exceed \$8,000 per annum for five years, per act of 1833,	32,000 00	8,000 00
Pennsylvania college, at Gettysburg, \$3,000 for five years, from 1st Monday of June, 1834,	12,000 00	3,000 00
La Fayette college, at Easton, \$2,000 per annum for four years, from 1st May, 1835,	8,000 00	2,000 00
	<u>57,000 00</u>	<u>16,000 00</u>

## PENITENTIARIES.

Penitentiary near Pittsburg, old balance,	114 98	
Eastern penitentiary, per act of 1833,	10,000 00	10,000 00
	<u>10,114 98</u>	<u>10,000 00</u>

## MISCELLANEOUS.

House of Refuge, per act of 1833, \$5,000 per annum for three years,	5,000 00	5,000 00
Commissioners of Erie county, to be collected from the owners of unpatented lands,	2,500 00	

	Amount ap- propriated.	Est. of am't. likely to be called for.
Susquehanna river and branches, per act of 1821,	2,000 00	
Susquehanna river from Co- lumbia to tide water (act of 26th March directs this balance to be paid to the Columbia bridge compa- ny, when double tracks of rails are laid on said bridge,)	4,012 52	
Susquehanna river, from Columbia to Northumber- land,	8,078 00	
Pennsylvania institution for instructing the blind, per act of 1834,	63,333 34	19,000 00
Repairing and painting pub- lic buildings, per resolu- tion of 4th April, 1833, balance,	913 75	
Wardens of the port of Philadelphia, for repairing piers and wharves at Glou- cester Point,	25,000 00	
Public schools, per act of 1834,	75,000 00	
	<u>\$163,337 61</u>	<u>\$24,000 00</u>
Total amount appropriated,		\$358,243 73
Total estimate of amount likely to be called for,		<u>\$61,052 54</u>

## NORRISTOWN,

## MONTGOMERY COUNTY.

We are pleased occasionally to notice the improvements and prosperity of our Borough. During the past season, they have been rather limited it is true, but the same cause which influenced this, has also prevailed in other places. There has been, however, a perceptible change—a steady increase in the business and appearance, which is highly flattering to the citizens. Among the improvements may be mentioned the new Nail Factory, erected by Mr. Savage. Within a week or so past, the machinery has been partly put in operation by Messrs. Morton and Henry Coats, whose enterprise will be a valuable acquisition to the borough, and add much to the business and facilities of the county. The building is 50 feet wide, by 145½ long.

The machinery when in complete operation will be propelled by two water wheels, one of twenty, the other of forty horse power. The rolling machinery, which is already in operation, is perhaps, the heaviest and most powerful of any of the kind in use at present, in this country. In order to give some idea it may be mentioned that the fly or balance wheel, alone, weighs upwards of twenty tons, and performs from 60 to 70 revolutions every minute. Several of our citizens had the pleasure of witnessing, the other day, the operation of running blooms through four different rollers, into nail hoops of sixty feet long, at one heat—an operation, we understand, performed by no other factory. Hoops are generally about twelve feet long, and at other mills are passed from the bloom through two furnaces. It is expected that the mill will be completed by spring.

There are now in the borough two cotton factories, giving employment to several hundred respectable, and industrious individuals—four merchant mills—two saw mills—and two stone saw mills. In addition to the

numerous hands already employed, the new nail factory will bring into the borough about sixty or seventy more. Some of whom will no doubt bring families, who will want shelter. Here then is a chance for capitalists and builders. Fifty or sixty new houses wanted—lumber cheap—lime plenty—and a number of valuable lots in market.

## UNITED STATES BANK.

During the month of November the loans of the United States Bank have increased in the nett amount, as appears from the annexed abstract of the monthly return, about \$1,800,000. The increase in domestic exchanges, is more than two millions and a half, so that on other securities there is some falling off.—*Journal of Commerce.*

*The following is the general state of the Bank:*

Loans on personal security,	29,544,130 44
bank stock,	1,035,647 05
other securities,	3,389,813 06
	<u>33,969,590 55</u>
Domestic Exchange,	13,608,498 22
	<u>\$47,578,088 77</u>
Baring, Brothers, & Co. &c.	2,687,006 85
Specie,	15,680,381 24
Redemption of public debt,	260,950 70
Treasurer of the United States	441,988 46
Public officers,	1,177,833 42
Individual deposits,	7,144,716 11
Circulation,	15,603,546 90
Due from State Banks,	2,194,475 96
Due to State Banks,	3,207,874 57
Notes of State Banks on hand,	<u>1,635,970 18</u>

*The state of the principal Branches is as follows.*

## PHILADELPHIA.

Loans on personal security,	3,395,466 41
bank stock	155,293 38
other securities,	2,263,175 09
	<u>5,113,935 08</u>
Domestic Bills of Exchange,	1,461,388 35
	<u>7,285,323 75</u>

## BOSTON.

Loans on personal security	1,459,379 86
bank stock,	46,202 10
other securities,	13,908 87
	<u>1,519,690 83</u>
Domestic Bills of Exchange,	1,260,143 38
	<u>2,779,834 21</u>

## NEW YORK.

Loans on personal security,	3,928,704 92
bank stock,	114,562 00
other securities,	326,280 67
	<u>4,369,547 59</u>
Domestic Bills of Exchange	1,797,959 18
	<u>6,167,506 77</u>

## BALTIMORE.

Loans on personal security,	1,530,570 74
bank stock,	116,165 00
other securities,	50,200 00
	<u>1,696,935 74</u>
Domestic Bills of Exchange,	221,591 02
	<u>1,918,496 76</u>

## VIADUCT AT PETERS'S ISLAND.

On page 91 of the present volume, we published Mr. Trautwine's description of the Viaduct at Peters's Island,—we had not then an opportunity of accompanying it with the engravings and references to the various parts—this we are now enabled to supply by the kindness of the Franklin Institute.

The following letters correspond with those in the engravings accompanying John C. Trautwine's description of the Viaduct across the River Schuylkill, at Peters's Island.

AA The outer extremities of the braces LL, which are shown in the transverse section. C Chords. J Floor joists. L Braces extending from piers to AA. M Plan of rib-scarf. N Side view of ditto. O Transverse floor girders. P Pole. Q Queen posts. R Queen braces. S Side braces. T Curved ribs. U Straining sills. V Straining beams. W Mode of shouldering queens on ribs. Y Mode of connecting chords to feet of queen posts. h Transverse roof girders. K King braces.

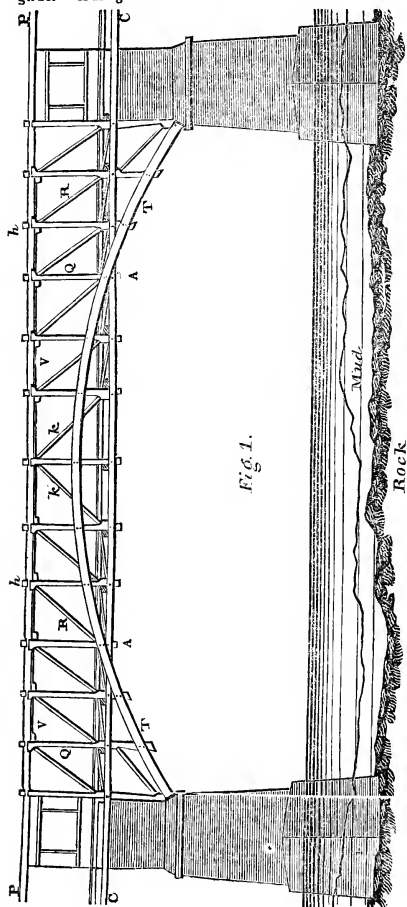
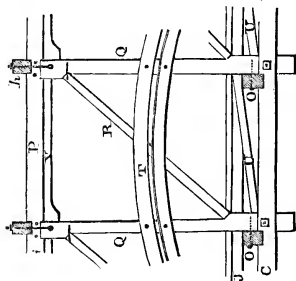
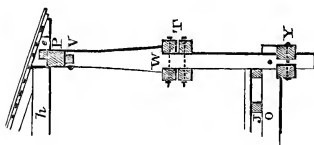
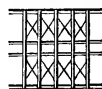
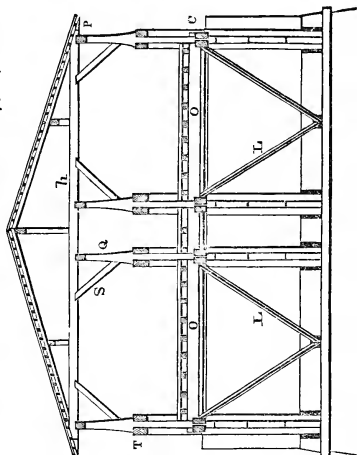


Fig. 1.



From the Village Record.

WEST BRADFORD BOARDING SCHOOL.

The following is a diary of the state of the weather as observed at this place, during the month of November—1834.

Days of month.	Days of week.	Sunrise.	Noon.	Sunset.	Sunrise.	Noon.	Sunset.	REMARKS.		
THERMOMETER.				WIND.						
1	7	42	50	43	N	NE	NE	cloudy	cloudy	cloudy
2	1	35	40	40	NE	NE	N	rain	do.	do.
3	2	26	52	47	N	E	N	clear	clear	clear
4	3	41	53	51	NE	SW	SW	clear	partly do.	clear
5	4	47	32	49	N	NW	NW	rain	cloudy	clear
6	5	36	55	50	N	N	N	clear	clear	clear
7	6	32	66	60	N	NW	SW	do.	do.	do.
8	7	39	60	50	NW	NW	NW	cloudy	partly	clear
9	1	26	56	45	NE	SW	SW	clear	clear	clear
10	2	28	52	53	NW	W	W	cloudy	cloudy	cloudy
11	3	48	56	50	NW	NW	NW	rain	clear	clear
12	4	32	50	50	NW	SW	SW	cloudy	partly	clear
13	5	29	56	52	SW	SE	S	clear	clear	clear
14	6	45	56	55	NW	NW	NW	rain	partly	clear
15	7	32	31	32	N	N	N	cloudy	cloudy	cloudy
16	1	23	31	30	NE	NE	NE	snow	cloudy	clear
17	2	29	34	36	NE	NE	NE	hail	rain	rain
18	3	47	50	50	NW	NW	NW	rain	partly clear	cloudy
19	4	46	50	49	NW	NW	NW	cloudy	partly clear	cloudy
20	5	44	48	46	NW	NW	NW	cloudy	cloudy	cloudy
21	6	38	60	54	NW	NW	N	cloudy	clear	clear
22	7	36	54	51	N	S	S	rain	clear	clear
23	1	35	50	42	NW	NW	NW	nearly	clear	and windy
24	2	38	40	37	NW	W	NW	clear	clear	clear
25	3	32	42	38	NW	NW	NW	snow	cloudy	clear
26	4	29	50	36	NW	W	NW	clear	clear	cloudy
27	5	28	46	42	NW	NW	NW	clear	clear	clear
28	6	22	57	43	SW	NW	SW	clear	clear	cloudy
29	7	43	44	50	SE	SE	S	rain	rain	rain
30	1	38	52	48	NW	NW	NW	clear	clear	clear

The autumn of this year was remarkably pleasant.—From about the 20th of October until the 15th November, the weather was generally mild, clear and somewhat smoky, being for the most part of that peculiar character usually denominated Indian Summer—or the summer of Saint Martin; and hence the season has been very favourable for the farmers to attend to their out-of-doors-work, and for all whose business called them abroad. There were three snows during the month—one upon the night of the 15th, one upon the night of the 24th, and the other upon the night of the 26th. The first was about three inches deep, the second about one inch, and the last only half an inch.

The coldest days were the 15th and 16th—on neither of which the temperature was above freezing point.—The 7th was the warmest, being 66° Fahrenheit at 12 o'clock, and 70° at 3 o'clock. The coldest was the 28th, at sunrise, being only 22°

The number of whole clear days was 8  
The number of whole cloudy do. 6  
The number of days on which rain fell 8  
Average of thermometer throughout the month:  
at sunrise Noon Sunset  
35° 49° 46°

The most remarkable phenomenon observed was the solar eclipse, on the 30th. At the commencement of the eclipse, the mercury stood at 55°  
30 minutes after the commencement, 51°  
45 minutes after do, 48°  
At the time of the greatest obscuration; 47°  
After which it rose 1°, and continued at 48° until after sunset. The day being clear, afforded a good opportu-

nity to observe the eclipse. The morning was particularly clear and calm. A short time previous to the commencement of the eclipse, however, a lively breeze arose from the north-west, bearing some semi-transparent clouds, which slightly obscured the view.

C. H.

From the Commercial Herald.

INTERNAL IMPROVEMENT.

A circumstance or two has fallen under our observation within a few days past, which, with a thousand others daily occurring, exemplifies the importance to the farmer of the great lines of improvement in this State. A farmer from Union county, a short time since informed us that about a year ago he killed one hundred hogs and brought the meat to market, and realized a profit which he thought at the time very satisfactory, but that subsequent events convinced him that greater profit still might be made by adopting a different mode of transportation. This year, in order to test the experiment, he procured the same number of hogs, brought them to this city in a canal boat, alive, killed them here, and realized a profit nearly twice as great as that which he made last year.

In the report of a committee of the House of Commons relative to the Liverpool and Manchester Rail Way, it is stated, that if double the prices were demanded on the rail way, the grazier would be the gainer. That in the ordinary modes, cattle always sustained injury in driving from a distance; their value was con-

siderably lessened, owing to the inferior quality of the meat arising from the animal being slaughtered in a diseased state—being fatigued and overdriven, they are feverish, look bad, and lose weight; but if carried on the rail road the cattle come off the journey as fresh as if they were just out of the field.

If advantages such as these are gained by the Liverpool and Manchester Rail Road, and the Pennsylvania Canal, why cannot our farmers and graziers on the Susquehanna be equally benefitted? The pasture lands in York, and Lancaster and Dauphin Counties, are known to be extremely fine, and the Columbia Rail Road affords all the facilities of the Liverpool and Manchester road.

**INTERNAL IMPROVEMENTS.**—The citizens of Susquehanna County are moving on the subject of a rail road from Pittston, Luzerne Co. to the north line of the State near the great bend of the Susquehanna. A committee has been appointed by a meeting of citizens to report to an adjourned meeting, to be held on the fifth of January next, upon the practicability of such a road, and also upon the projected navigation of the Susquehanna by steamboats.

They had better go for a canal at once.—*Commercial Herald*

#### PENNSYLVANIA HOUSE OF REPRESENTATIVES.

A friend at Harrisburg has favored us with the annexed statement of the professions and occupations of the members of the House of Representatives. It will be seen from this, that, the "bone and sinew" of the country, as they have been justly esteemed, again compose more than one-half of the whole number of members. The classification is as follows:

Physicians,	2	Silver Smith,	1
Lawyers,	15	Tradesman,	1
House Carpenters,	3	Crover,	1
Mechanics,	3	Millwright,	1
Merchants,	4	Accountant,	1
Printers,	2	Gentlemen,	2
Farmers,	55	Junkeeper,	1
Manufacturers,	2	Potter,	1
Sadler,	1	Tanner,	1
Surveyor,	2	Iron Master,	1

Total, 100  
*Germanstown Tel.*

#### NEW BUILDINGS IN PHILADELPHIA.

The whole number of buildings erected within the bounds of the City proper, during the present year, has been three hundred and sixty-one, viz:

Six story store	1	Brought over,	317
Five story do.	1	Two story stores,	3
Four story hotel,	1	Two story stables, 2 two	
Four story school house	1	story coach houses 3—5	5
Four story dwellings	49	Two story shops, 2; De-	
Four story stores,	44	pot 1,	3
Three story dwellings,	177	Steam factory, 1; swim-	
Three story stores	5	ming bath 1,	2
Churches,	2	Three story back build-	
Three story car house, 1		ings.	8
Three story steam mill, 1		Two story back do	18
Three story workshop, 1		One story back do	5
Two story dwellings, 33		Total,	361

317

This number includes the buildings on Girard street, and shows a great decrease during the past season. Of the number erected, a large proportion have been beyond Broad street, and were of small dimensions principally

built by mechanics, who were unable to obtain other employment.

Last year among the buildings erected in the city proper were—59 four story stores; 26 four story dwellings; 11 three story stores; and 286 three story dwellings. The whole number of buildings amounted to 492.—*Commercial Herald.*

From the West Chester Democrat.

#### IMPROVEMENTS.

Extract of a letter from a friend travelling in the west, to one of the editors.

NEAR PITTSBURG, Dec. 7, 1834.

Dear Sir:—I have now traversed the Pennsylvania line of Rail way and Canals from Philadelphia to Pittsburg, and have formed my opinion of them from observation. Notwithstanding the vast improvement they have made in our state, and the great facility they furnish, in communicating between the two extremities of the state, yet I am of the opinion, that facility might have been greatly increased by a different order of things. The navigation of the Susquehanna and Juniata rivers, on the east of the mountains, and of the Conemaugh, Kiskiminetas and Allegheny on the west, ought to have been by slack water, and not by canal.

I do not know that this opinion is new; indeed, I think it is not, for I have heard many others during my journey express the same opinion. If such had been the case, all the navigation might have been done by steam, instead of horse power, and the acquisition of speed would have decreased the distance at least one-half. To make slack water navigation, you know there must be dams, and no rivers in the world present greater adaptations for that, than those mentioned. In the Susquehanna, from Columbia to Clark's Ferry, very slight ones would have answered, and the Juniata from thence to Hollidaysburg runs the whole distance between ridges of mountains. From Johnstown to the Kiskiminetas, the Conemaugh is much like the Juniata, and below that, there is almost water enough at any time to float a 3½ feet steamer. Indeed, they have for several years, and do now run steamboats up it. By this course all the aqueducts, all the canal bridges, and all the towpaths, would have been unnecessary, and all the expense of them would have been saved—and, in addition to that, there would not have been more than half the number of locks. A steambot, you know, can be raised and lowered in a lock just as well as a canal-boat, and instead of travelling along our internal navigation at the rate of three miles per hour, we could travel at least nine miles. Philadelphia and Pittsburg would not be more than half as far apart. Another consideration, and this I have from a practical Engineer now on the improvements, the expense would not have been near so great to make the slack water, as it has been to make the canal navigation.

I have written rather more upon this matter than at first I intended; but the truth of my opinion has appeared to me so evident, that I could not say less. If I remember rightly, though, it was a description of what is done, that you wished of me, rather than an opinion of what ought to have been done. Then, sir, you shall have it. I expressed, in a former letter to you, my admiration of some of the public works, that I had then passed, and I can assure you that my admiration has not been diminished by those I have since seen. Above Lewistown, on the Juniata canal, you cross the river, I think, two or three times by aqueducts, handsomely and substantially built, otherwise the works are much the same until you arrive at Hollidaysburgh, at the foot of the Allegheny mountains, where the canal ends and the Portage rail way begins. This rail way is yet unfinished, but enough is done to permit an immense amount of merchandise and produce to pass over. It is carried from the foot of the mountain to the summit, by five inclined planes, all worked by steam engines, and all

handsomely and substantially built. A passenger going over them, and taking an opportunity to look at the machinery before he starts, is under no apprehension for his safety in passing up or down them. Every thing is in perfect order. They appear like fairy castles seated on the tops of lofty hills, and shaded and surrounded by towering oaks and hemlocks with which the Allegheny is so thickly studded. It seemed to me like the works of magic, rather than the effect of the slow, dull labor of poor man. There are here no houses, no farms, no busy hum of men; all is still, silent, and wild, but sublime and grand beyond any thing we know or imagine at home. When you get to the very summit of the mountain, at the point where the northern turnpike is crossed by the rail way, you come at once upon a large and commodious hotel—and near to it a frame building still larger, which the state has erected for her warehouse and riggersloft, in the midst of this solitude. This hotel was owned and kept by a gentleman, who lately was thrown from his horse when riding along the rail way and killed by a passing car. Descending the mountain from this place, you pass on its western side, the same kind of country, (if different, only as it abounds more in pine and hemlock,) and by the means of five other planes, and a tunnel of about 800 feet, handsomely arched with hewn stone, to the head waters of the Conemaugh river, and along it by rail way still, to Johnstown, thirty-six miles from Hollidaysburg your starting place. No one who has not passed over this Portage rail way, would believe, what business is already done there. Only one line of boats are now running—only one track of the rail way is completed, and yet I think we must have passed more than fifty cars laden with merchandise of the east, and the products of the west. When completed, the whole will present one dense line of burden and pleasure cars, and there are great doubts whether all can then be accommodated as speedily as they will wish. Johnstown is a thriving place, and is rapidly increasing. It must one day become of importance, on account of its location at the end of the canal and rail way. The Conemaugh river, that here feeds the western canal, is very similar to the Juniata, until it joins the Loyal Hannah and forms the Kiskiminetas, which name it then assumes. From thence to the Allegheny it is a beautiful stream, winding at one time between lofty mountains, short spurs of the Allegheny; and, at another, through low lands very fertile and much of them not cleared, and yielding fruitfully every thing that human nature can crave.—Progressing along this river, you enter upon the smooth, unruffled waters of the Allegheny at Freeport, passing many young but thriving towns, springing up to accommodate the requirements of the navigation, some of them no doubt destined to become competitors of the “Daughter of the West,” before many cycles shall roll round.

Among these, the handsomest is Blairsville, in Indiana county, at the point where the turnpike crosses the river. This town is rapidly increasing, and even now contends with the capital of the county, for the honor and advantage of being the seat of justice. Should it succeed, I do not see why it will not one day earn and wear, the title of a city of the west.

We are now close upon the city of Pittsburg, and I must conclude my letter. But I cannot do so without adverting to the great opportunity there is, even here, for a Chester county man to become independent, even wealthy, who at home is comparatively poor. Good farm land, with the timber on it, can be bought here for from \$2½ to \$3 per acre, and improvements, comfortable enough, are not by any means costly.

The first crop in this country, if raised in Chester county style, would always pay for the land and the labor—and for a market, Pittsburg is nearer and as good as Philadelphia is to us. I shall, as I pass through the west, address you more at length upon these subjects; and probably, may open the eyes of some poor driv-

ler upon our scrubbed barrens, that he can see a country and a home, more bountiful and less oppressive, where he can enjoy blessings and advantages he never before dreamed of. If I do, I shall have amused myself in scribbling to you, and benefitted him, by my amusement.

I am, sir, very respectfully yours,

J. H. B.

#### SCHOOL LAW—CHESTER COUNTY.

To Joseph J. Lewis, John G. Wersler, and George Thomas, M. D.

We hereby transmit you a list of the townships that accepted and those that rejected the School Law at the Convention, &c.—the amount of tax levied on each township—the amount of money paid for the education of the poor last year, and the amount of county rates and levies for county purposes, the present year; all of which is most respectfully submitted.

J. WOOD,  
W. YARNALL,  
JOHN MALIN,  
Commissioners.

<i>Townships.</i>	<i>Amount Tax.</i>	<i>No. Taxables.</i>
Birmingham, nay	\$ 443 66*	70
East Bradford, nay	1,574 32	264
West Bradford, nay	1,616 51	334
Brandywine, yea	1,113 75	390
L. Britain, nay	535 71	118
East Caln, yea	2,010 48	509
West Caln, yea	1,111 36	386
Charlestown, yea	942 40	513
Coventry, nay	1,614 54	615
West Chester, yea	1,412 22	345
London Derry, nay	440 70	154
E. Fallowfield, nay	969 51	266
W. Fallowfield, nay	1,087 76	375
East Goslen, yea	932 67	181
West Goslen, nay	1,115 61	175
Londongrove, nay	1,467 43	236
New Garden, nay	1,661 95	313
Honeybrook, yea	1,534 22	455
Kennett, nay	1,366 12	255
New London, nay	1,118 73	327
Newlin, nay	986 70	203
E. Marlborough, nay	1,545 38	308
W. Marlborough, nay	1,450 57	212
E. Nottingham, yea	756 88	326
W. Nottingham, nay	246 00	115
E. Nantmeal, nay	1,804 24	499
West Nantmeal, yea	1,449 48	346
Upper Oxford, nay	667 06	159
Lower Oxford, yea	547 03	262
Penn, nay	555 32	143
Pennsbury, nay	1,543 09	188
Pikeland, nay	1,393 06	299
Sadsbury, yea	1,606 61	400
Schuylkill, yea	1,369 78	325
Thornbury, nay	372 17	28
Tredyffrin, yea	1,753 69	343
East Town, yea	765 63	173
East Vincent, nay	863 86	228
West Vincent, yea	1,204 58	252
Willistown, nay	2,074 95	340
West Town, nay	953 53	140
E. Whiteland, yea	1,267 70	233
W. Whiteland, yea	1,298 90	233
Uwchlan, nay	1,410 89	194
Whole amount of county tax for 1834,		\$36,934 95
Amount paid for schooling for 1833,		6,928 85

\* Two-sixths of those sums to be deducted for state tax.

From the Western Argus.

### LIST OF STEAM BOATS,

*Built by PHILLIPS & GRAHAM, at and near Phillipsburg, Beaver County.*

1822	Pennsylvania	130 tons.
"	Rambler	130
1823	Eclipse	155
"	President	330
1824	Lafayette	165
"	Gen. Brown	250*
"	William Penn	156
1825	Bolivar	160
"	Gen. Wayne	300*
"	Liberator	250
"	Paul Jones	340
1826	Pocahontas	500
"	America	250*
"	Florida	300
"	Columbus	325
"	Echo	150
1827	Essex	150*
"	Lagrange	150
"	Pittsburg & Wheeling	
"	Packet	160
"	Red Rover	40
1828	Missouri	160
"	Do. Barge	60
"	Potomac	60
"	Phoenix	200
"	Talma	150
"	Huron	200
1829	Cora	150*
1830	New Jersey	154
"	Gleaner	60*
"	Peruvian	250
"	Canal Boat	40
"	Hermit	50
"	Louisville	350*
"	Carrollton	200*
1831	Winnabago	100
"	Antelope	90
"	Michigan	400*
"	Mohawk	550
"	Transport	150

By PHILLIPS & BETTS, at FREEDOM.

1832	Fame	190
"	Comet	100
"	Chester	250*
"	Return	250*
"	Missourian	300*
1833	William Penn	90
"	Boonslick	300*
"	Majestic	300*
1834	Galenean	100*
"	Oceana	300*
"	Potosi	200*
"	Mogul	500*
"	Ivanhoe	200
"	Siam	200*
"	Newcastle (packet boat)	
"	One on the stocks	200*

Here is a list of *fifty-five boats*, many of them of the largest class, with an aggregate tonnage of about 10,900. The average cost of these boats when completed, is about \$70 per tons, which makes the gross amount of rising *seven hundred and sixty thousand dollars!*

\* These boats, nineteen in number, were built for Mr. James Wood, of Pittsburg.

**MOGUL.**—We recently extracted, from the Pittsburg Statesman, a notice of some of the new Steam Boats built this season, near this city, and finished here.—

This list was by no means complete — The Steam Boat **MOGUL**, for instance, which is the largest of all, was omitted.

The **Mogul** is owned by James Wood & Co. She measures, on deck, 186 feet; length of keel, 162; breadth of beam, 27; depth of hold, 9 feet 4 inches.— She measures four hundred and thirty tons, and has an engine of *three hundred horses'* power. She is, in all respects, a strong, substantial boat, neatly and handsomely finished.—She is intended for the New Orleans and St. Louis trade, and departed for the former place on the 12th inst.—*Pittsburg Gaz.*

From the Commercial Herald.

### GRAIN AND FLOUR.

From the opening of the Schuylkill Canal on the 9th of March last, to the 31st of October, inclusive, the amount of Grain and Flour brought to market by this route, has been as follows:

	Grain—bushels.	Flour—bbl.
From the Union Canal,	305,560	58,600
From places above Reading,	1,040	11
From Reading,	15,920	4,074
From places below Reading,	14,520	17,304
Total,	337,040	79,989

From the Pittsburg Conference Journal.

### OUR COAL FORMATIONS.—BY THE EDITOR.

On the 8th of last March, we published various questions respecting the coal formations of our country, and requested from our correspondents answers to them, for the purpose of obtaining information respecting the coal of our country, in order that we might arrive at such conclusions concerning the various coal strata as might aid in investigating our country's resources in this source of wealth, as the great foundation of the most important manufactures in the world. To the extent to which we intend to pursue this department of geological science, we think its introduction into our columns sufficiently comports with the character of a religious journal. We have received only two communications on this subject; one, dated March 13, from the Rev. T. Drummond; the other from the Rev. S. E. Babcock, dated March 24. From the information contained in these, as well as what falls to our own lot, we wish to make some observations on the subject.— We know that our skill in geological science is very limited; our expressions may be far from scientific, and our reasonings may be considerably incorrect. Still as we will be open to conviction, and ready to correct our errors, we will present to the public the following hasty thoughts.

From brother Drummond's letter we learn that, in the neighborhood of Morgantown, there are three strata of coal above the surface of the ground, or the level of the channel of the Monongahela river. The first or highest is calculated at 300 feet above the river; the second at 150, and the third at 30. There is also a fourth stratum, for the most part below the channel of the river, but in some places forming the bed of the river itself.

From brother Babcock's letter we ascertain that there are also three strata of coal above the level of the lowest surface, (or above the level of the bed of the river at low water mark.) at Greensborough or vicinity, twelve or thirteen miles below Morgantown. The first or highest is supposed to be about 350 feet above the bed of the river; the second is about 150, and the third about 50. He also informs us that there are two strata under the level of the river, viz: the first is 16 feet below the surface, and the second is 147 feet below it.— There is only one stratum of coal, as near as we can

gather, above the level of the surface, in the neighborhood of Pittsburg, and up the Yough and Monongahela as far as Brownsville and Concessville. But, in digging salt wells, two or more strata, below the surface, (the precise distance we have not ascertained,) have been found to exist. Thus we have one, two, and sometimes three strata above the surface. We have also two strata below the surface, and these seem to be somewhat similar to the coal strata in England, where there is none above the surface, so that shafts must be sunk in order to raise them by the aid of powerful engines. To this mode we must also have recourse, when the strata above the surface shall be exhausted, unless the supply be inexhaustible. Commencing with the highest, we will call the strata above the surface, Nos. 1, 2, 3, and those under the surface, Nos. 4 and 5.

In the first place, we will trace out stratum No. 3.—This can easily be done with certainty, in ascending the Monongahela or Yough rivers; for the stratum can be traced from hill to hill, on both sides of these rivers, in horizontal position.—Observe, however, our measurement by feet is only conjectural; yet, for the purpose of tracing out and identifying this stratum, this will suffice. The stratum No. 3 is about 300 feet above the bed of the river at Pittsburg, 200 feet at Elizabethtown, 150 at Williamsport, 100 at Brownsville, 50 at Greensborough, and 30 at Morgantown. A person sailing or travelling up the river can easily perceive, as he ascends, that the coal banks are becoming nearer the water's edge, every hill he passes; until, at Greensborough or Morgantown, they come very near it. Besides, as a person retires from the river, and follows out the creeks and streams, he will find this stratum on their shelving banks, and sometimes forming their beds; and when he proceeds to the heads of these streams, he will find this stratum sunk too low to be worked, except by shafts. Thus, about Washington, Pa. there is not much coal to be found above the level of the water courses. This stratum shows itself west of Pittsburg, on the Steubenville road, at an elevation about the same as in Coal Hill. It is also seen in the forks between the Monongahela and Allegheny rivers in the vicinity of Pittsburg, but is broken by the valley at East Liberty. It is also seen north of the Allegheny river, opposite Pittsburg, at an elevation equal if not greater than that of Coal Hill.—But this stratum does not seem to run west of the Franklin road, north of Pittsburg, and indeed it has the appearance of entirely running out here. We doubt whether this stratum is that which is found about Steubenville, Wellsburg, Wheeling, and their vicinities, as it probably runs out west of Pittsburg a few miles, and then, further down the river, perhaps, No. 4 makes its appearance. But this we cannot assert positively, because we have not examined the country with sufficient accuracy for decision. But we are positive in locating No. 3 along the Monongahela in the manner we have done.

The stratum No. 3 can also be traced along the Pennsylvania Canal. Up this course, the stratum comes nearer the water as you ascend, until you find it at Blairsville only about 30 feet above the level of the canal. This bed does not seem to make its appearance east of the Chestnut Ridge, for at Johnstown the bank found in the adjacent hills, must be 200 or 300 feet above the bed of the river. Besides, the coal bank at Johnstown is only about four feet thick, and of a quality inferior to the coal at Blairsville or Pittsburg.

The stratum No. 2 is probably that which appears at Johnstown or Armagh. In these places the coal is brittle, and does not possess the same amount of bitumen as No. 3 does, although it is properly bituminous coal. No. 2, we suppose, makes its appearance at Smithfield, about 22 miles east of Uniontown, Pa. where the coal seems to be better than that at Johnstown, but not so good as the coal at Uniontown, Brownsville, or Pittsburg. It is probable that this is a continuation

of the same stratum which makes its appearance at Cumberland, Md., as the coal seemed to be of the same appearance at both places, as far as we could judge by a slight examination, while passing hastily through the latter place.

We cannot find No. 1 any where, as far as my information goes, except in the neighborhood of Morgantown, Va. unless it may be in Somerset, Pa. There is no stratum west of the mountain corresponding to this, for it is No. 3 alone that makes its appearance every where in the valleys of the Monongahela and Yough rivers, and their tributary streams, west of the western mountain ridge, except near Morgantown and Greensborough. But it ought not to be forgotten that the elevated parts of these neighborhoods are rather protuberances of the mountain spires, and in this way, perhaps we may account for the existence of stratum No. 1, unless it might be owing to the following cause. That, by a volcanic eruption, the stratum Nos. 1 and 2 rose above the level of their horizontal position, which, in that case, must have been Nos. 3 and 4. But, as near as we can ascertain, there is no such phenomenon to be accounted for by the appearance of the coal beds near Morgantown, because No. 3 continues its uniform stratification, first near Pittsburg, and then up the Monongahela, until it is found under No. 2 at Morgantown, and that too by a regular continuation, as there does not appear to be any traces of a break so as to countenance the opinion that the stratum was there interrupted.

The stratum of Somerset, Pa. appears to be No. 1. It is much more elevated than the beds of No. 2 at Johnstown or Smithfield. Besides, the coal is peculiar. It is quite brittle, has small portions of bitumen, is difficult to ignite, produces a dull feeble flame, and will not burn at all in a grate, but only in a stove. We are not certain whether it would answer for the forge, as it probably was never tried for that purpose, but we think it would not answer.

As it regards the strata Nos. 4 and 5, they are entirely under the surface of low water mark of the lowest streams. That they exist, we have clear demonstration. Together with several thin veins, a stratum of 4 feet deep was pierced through, in boring the salt well above the Monongahela bridge near Pittsburg. Two strata exist near Greensborough, one 16, the other 147 feet below the river bed, and this last was 30 feet thick, but of an inferior quality. Mr. Palmer informed us that a good stratum of coal existed in most parts about Plumsock, (Middletown,) and Uniontown, in Fayette county, Pa., which could be worked easier than the coal mines near Kingwood, in England. One or more veins of coal have been pierced through in most of the salt wells on the Kiskiminetas and Conemaugh rivers. We have not been able to ascertain the precise depth and thickness of these strata, although this could be done to some extent by strict inquiry from those who have dug the wells. Indeed the calculation, as it respects depth of feet exactly, is merely conjectural.—But the continuation of stratum No. 3 is undoubted; and the existence of Nos. 4 and 5 is equally certain, though their depths and thickness are uncertain, and it is also uncertain whether they exist in all places throughout the coal regions, or whether they exist at such depths as they can be worked, by the help of shafts and machinery. It is possible that Nos. 1 and 2 may be Nos. 3 and 4 elevated in some places, yet from all the appearances from which we can judge, we suppose they are distinct strata.

We are not able to say any thing respecting the coal strata on the Allegheny, above the mouth of the Kiskiminetas not having travelled through that country, yet we are convinced that much interesting information could be collected from that quarter. At Franklin and south of it, coal is abundant. In Mercer and Butler counties, the banks are few, and coal is generally inferior to that of Pittsburg. Whether No. 4 or 5 ex-

tends through that country we cannot say. It would be a subject well worth examining into. It would also be desirable to know whether stratum No. 3 is the same which is found at Beaver, Steubenville, Wheeling, and their vicinities. Perhaps it might be, as the general *dip* towards the south and south-west might justify that opinion. But we *suppose* it is a lower stratum; yet this cannot be ascertained with certainty, except by following the Ohio, and tracing accurately whether the regular process of stratification is continued. There is certainly a sufficient number of facts brought to light, which, were they collected, composed, and arranged, would enable an accurate examiner to ascertain whether No. 3 is the same here and down the river from this place.

To fix the precise depths of Nos. 4 and 5 would be important, and to ascertain whether one or both of them continues north, towards the dividing ridge of the Ohio and Lake Erie waters. Perhaps they continue to the very neighborhoods of the Lake, or to the border of the alluvial strata formed by the Lake when it rose higher than it does now. And might not these strata be continued even under the former bed of the Lake and thus present something similar to what exists in parts of Scotland, where the coal bed is under the bed of the sea?

We have now written as much as the data on which we have gone will allow us; and we have also thrown out some conjectures and made some inquiries, which we would be glad to have confirmed, corrected or rejected by the certainty of facts. We will take occasion for the present, to offer two or three moral reflections, which grow out of the subject.

1. The abundant supplies of coal which our country affords is an inexhaustible source of wealth, comfort, and competency, in all those regions of country where it exists. It is the very stamen of the most useful, external, and lucrative manufactures in the world. For domestic purposes, it goes far towards the comforts and enjoyments of life. The Almighty has laid up in store for us these supplies, as in a repository. This provision of His hand should lead us to obey and serve Him, and make a right use of all His blessings.

2. Our hills are richly supplied with this useful mineral, so that we have not to undergo heavy expenses and endure much labor in raising it from great depths in the earth, as in England. This discovers to us the merciful arrangement of God, in thus providing for our new country those supplies which can be had with little expense and labor.

3. But for the exertions of future ages there is a reservoir for which we must labor. The lesson to be learned here is, that idleness should be shunned, and industry should be followed by every human being.

We will conclude our lengthy piece, by requesting from our correspondents answers to the following questions in a corner of their sheet.

1. The number of coal strata in your neighborhoods? The height of each above the channels of the nearest streams? The thickness of these strata?

2. In digging salt or other wells, how many coal strata have been pierced through? Their thickness? Their depth from the surface.

3. Any other information connected with these which each writer may think of importance.

From the United States Gazette.

#### UNEQUAL TAXATION.

It is a maxim in all just governments, that taxation shall be equal; or in other terms, that the same rules for the assessment of property, shall be equally applied to all property of the same nature and character. Such has always been the purpose of the Legislature of Pennsylvania, and such the principle which it has in-

tended to apply in the imposition of taxes for state, county, city or local objects. If deviations from this principle have occurred, they have been the results of accident, or of the absence of information.

A great and anomalous inequality prevails in the taxation of ground rents, the consequence of an oversight in the legislation in reference to such property. The extent of the injury done to the holders of ground rents subject to taxes, will be shewn in this communication; and all will admit that a remedy should be afforded by the legislative powers.

Before exhibiting, in detail, the facts to support these positions, it may be proper to state the rules which prevail in estimating real estate in the city and county, for taxation. All real property, other than ground rents, is, after personal view of it, valued at what, in the judgment of the assessors it will sell for; and having ascertained this, they deduct from the amount of such valuation *sixty per cent.* and the remainder, being forty per cent. of the selling worth of the property, is the sum on which taxes are assessed.

Thus, if a property in the opinion of the assessors will sell for

\$20,000

The assessors deduct 60 per cent. or

12,000

Leaving to be charged with taxes,

8,000

When ground rents were by an act of Assembly made liable for taxes, the assessors were directed to value them at *ten years* purchase, or *ten times* the amount of the annual rent. Afterwards, by a subsequent law, they were ordered to be valued at *twelve years* purchase, or *twelve times* the amount of the annual rent; and thus stands the legislation on the matter; and assessments are since made accordingly.

A ground rent of \$100 per annum, is therefore valued at

\$1,200

A house producing \$100 rent per annum, and which would sell for an amount, the interest of which would be \$100 per annum is, according to the rule of assessments before stated, estimated at

1,556 66

From this the assessors deduct 60 per cent. or

626 67

Difference between the sum chargeable on the ground rent property, and the house, against the former

\$533 34

The unjust effects on the two kinds of property in the city and county of Philadelphia, consequent to this state of things, will be shewn from accurate documents, and information which is not to be questioned. The statement of the taxes paid, are made from the tax books and receipts for taxes; and that of the rents paid by the tenants of the same property, from memoranda furnished by, or obtained from them.

A house and lot of ground in High Street, Chesnut ward, rents for the sum of \$1,250 per annum. This property pays a ground rent of \$42 67 per annum, subject to taxes.

The owner of the house and lot yielding \$1250 per annum, pays taxes on the same amounting to \$109 65, or 8 2/3 per cent. of the rent.

The owner of the ground rent of \$42 67 per annum, pays taxes on the same amounting to \$8 65, or 20 1/2 per cent. on the amount of the ground rent.

A property adjoining, rents for \$1650 per annum, and this property is also subject to a ground rent of \$42 67 per annum, subject to taxes.

The owner of this property yielding \$1650 per annum pays taxes on the same amounting to \$113 50, or 6 8 100 per cent. on the rent.

The owner of the ground rent of \$42 67 per annum, pays taxes on the same amounting to \$8 65, or 20 1/2 per cent. on the amount of the same rent.

An adjoining property rents for \$1850 per annum. This property is charged with a ground rent of \$42 67 per annum, subject to taxes.

The property yielding \$1850 rent, pays taxes amounting to \$164, being 8 7-10 per cent. on the rent. The ground rent of \$42 67, pays taxes amounting to \$8 65, being 20½ per cent. on the same rent.

A house and lot of ground in North Third street, Upper Delaware ward, is subject to a ground rent of \$22 40, paying taxes, and rents for \$350 per annum.

The owner of this house and lot, pays taxes on the same, amounting to \$35 69, or about 10 per cent, on the rent.

The taxes on the same rent are 4 54, or 20 1 10 per cent. on the same.

An adjoining property rents for \$350 per annum, and is subject to a ground rent, charged with taxes of \$22 40. The proprietor of the house and lot pays \$36 01 taxes on the same, or about 10 1-6 per cent. on the rent. The ground rent pays a tax of \$5 54, or 20 1 10 per cent. on the rent.

In the county of Philadelphia, these inequalities are still greater. The addition of Corporation and District taxes, creates the greater injustice. An estate at the corner of Fifth and Shippen streets, Moyamensing, is chargeable with a ground rent of \$53 33 per annum, subject to taxes. This property rents for \$263 yearly. The owner of the estate pays as the annual taxes \$17 55, or about 6½ per cent. on the rent. The owner of the ground rent pays as the annual taxes on the ground rent \$14 40, being upwards of 27 per cent. of the same.

For a property on Shippen street, above Fifth street, Moyamensing, the annual rent is \$204. On this there is a ground rent of 21 33, subject to taxes.

The annual taxes on the estate are \$12 50, or about 6 1-10 cent on the rent. The taxes on the ground rent are \$5 73, or about 27 per cent. of the same.

It is unnecessary to exhibit more instances of these inequalities. The writer has fifty cases before him, shewing the same differences. Enough has been stated to satisfy the public of the injustice of the present assessments; and no doubt is entertained that the legislature will afford relief when the subject is submitted to them.

### PHILADELPHIA FIREMEN.

At a meeting of Firemen of Philadelphia, held December 23d, 1834, at the Tontine Coffee House, SAMUEL FOX, Esq. was called to the Chair, and C. J. JACK, appointed Secretary.

On motion, Peter Fritz, Samuel V. Merrick, C. J. Jack, William Roland and Peter C. Ellmaker were appointed a committee to draft resolutions expressive of the sense of the meeting. The Committee retired for a few minutes and reported the following Preamble and Resolutions:—

Whereas, The Firemen of the City of New York, through ABRAHAM HATFIELD, and others, thought proper to banter the Firemen of Philadelphia with a challenge, in the following words:—

“Mr. Kerrison is authorised to bet one thousand dollars that two of our New York Engines can overrun any one Philadelphia Engine in fifteen minutes, under the following arrangement: The two New York Engines are to draw water from the dock, and play into the Philadelphia Engine, the Philadelphia Engine to be one half full of water at commencement, and to play but two streams from the box or gooseneck—all the Engines to play through 50 feet of hose, providing the corporation will allow us to take the Engines to Philadelphia.

ABRAHAM HATFIELD,  
For self and others.

New York, Nov. 11th, 1834.

Which indication of opinion, was justly considered by the Firemen of Philadelphia as an attempt to dispoil them of that reputation so well earned by them, and universally admitted by the American public, and as

being calculated to improperly arouse the feelings and excite the passions of our Firemen. And Whereas, the Philadelphia Firemen, willing to rest their claims to public regard upon the services which they had rendered to the community, but not disinclined to meet their adversaries upon their own ground, although altogether denying the usefulness or propriety of the experiments they proposed to them, resolved to take up the offer, and for that purpose made every effort to adjust with the New York Firemen the preliminaries, so as to preserve the equal rights of the parties, and determine, with firmness and justice, the result—which, owing to a constant change of position, and variation from the original proposal on the part of the New York Firemen, they were unable to accomplish.—And whereas, the New York Firemen, anxious to persuade the public of their right to the *honor of victory*, without being willing to *earn* their dripping laurels by the prowess of their *arms*, have vain gloriously boasted through their public prints, that our Firemen “backed out of the contest”—thus in a second instance implicating the capacity, courage, and superiority of usefulness of the Philadelphia Firemen.

Therefore resolved, That being thus publicly assailed, we do believe it to be our duty to the public, as well as to the Fire Department of this city, to vindicate our character from all such imputations, by an unequivocal and prompt acceptance of the challenge exactly as made in the communication of the said Abraham Hatfield.

Resolved, That Samuel Fox, Peter Fritz, Samuel V. Merrick, Thomas F. Frith, John Price Wetherill, Charles J. Jack, Peter C. Ellmaker, William Rowland, Horatio G. Rowley, John Allen, Frederick A. Huber, and Jacob B. Lancaster, be a committee to meet any committee appointed by the *New York Firemen* to deposit the sum of *One Thousand Dollars* upon our part in the hands of such persons as the Joint Committee may select.

Resolved, That said Committee be authorised to make every needful and necessary arrangement to finally adjust the dispute, and as far as the gaining or losing the bet can determine it, settle the question of relative merit and qualifications.

Resolved, That the proceedings of this meeting be published signed by the Chairman and Secretary.

SAMUEL FOX, Chairman.

C. J. JACK, Secretary.

From Poulson's American Daily Advertiser.

### PHILADELPHIA DISPENSARY.

#### ANNUAL REPORT.

Five thousand and forty-seven patients have been under care of this Institution, since last report, viz:—

Remaining from last year,	45
Admitted since that time,	5002
	—————5047

Of whom the number recovered is	4683
Dead,	117
Relieved,	132
Irregular and uncertain,	105
Remaining under care,	10
	—————5047

#### RECEIPTS.

Balance from last year,	\$33 25
Annual Contributions,	370 00
Interest on Bonds and Mortgages,	405 00
Ground Rent,	165 00
Dividends on Stock,	359 50
House Rent,	424 07
From the Administrators of Dr. Charles Brown,	286 00
Donation,	5 00
Life Subscription from George Harrison,	50 00
Balance due Treasurer;	77 06

## EXPENDITURES.

House expenses,	\$377 63
Medical Expenses,	1157 34
Stationary;	23 10
Taxes and Repairs,	34 61
Apothecary's Salary and Donation,	500 00
Collector's Commissions,	22 20
	<u>\$2114 88</u>

In looking over the past year it will be a source of gratification to the Contributors, to reflect on the large amount of good which has been dispensed by this Institution. The Philadelphia Dispensary during that period has not only administered medical aid gratuitously to more than five thousand needy individuals, but it has carried joy and comfort into the bosom of hundreds of poor families, who otherwise would have now been languishing in penury and sorrow. The number of patients which has been attended this year, exceeds by several hundred, that of any other one year since its establishment, thus showing a gradual increase and continued extension of the design of its original founders.

The managers of the Dispensary, notwithstanding they have cause to be well satisfied with the vigor and efficiency with which its operations have been conducted, nevertheless believe, that if the design and scope of this Institution were more intimately understood by their fellow citizens generally, and were the benefits to be derived from it, more justly appreciated by those who are the proper object of its care, a much greater number would be enabled annually to partake of its proffered aid. With this view then, they would again urge on the contributors as well as other charitably disposed persons, to keep this Institution in remembrance, and whenever suitable objects present themselves to recommend them to its care. To obtain this, no order from a manager—recommendation from a contributor—or indeed any other preparatory step is at all necessary. For want of understanding this, and from a too general belief that admittance into this Charity requires some complex introductory process; it is believed, that many indigent persons have been discouraged from seeking succour at our doors. Nothing however of the kind is required; on the contrary any respectable poor person without distinction of country or of color, may avail himself of the advantages of this establishment, by simply applying therefor at the Dispensary.

WILLIAM WHITE, President.

CASPAR WISTAR, Secretary.

## COMMON SCHOOL FUND.

The following report of the situation of the Common School Fund, was made to the House of Representatives, on Wednesday last in pursuance of a resolution of that body. It embraces much valuable information, and will, no doubt, be read with considerable interest.

HARRISBURG, December 16, 1834.

HON. JAMES THOMPSON,

Speaker of the House of Representatives.

Sir—In obedience to a resolution of the House of Representatives of the 15th instant, relative to the Common School Fund, the Commissioners of the said fund respectfully submit the following information.

Amount transferred to the Common School Fund, on the first of April, 1832, under the act of April, 1831, being the proceeds of Lands and Land Office Fees,

\$75,342 37

Interest on the same for one year,

3,767 11

Amount transferred on the 1st of April, 1833, viz:

Proceeds of Lands and land

office fees,

49,358 37

Increase of county rates and levies,

153,973 79

203,332 16

Fund for 1833,

282,441 64

Interest on the same for one year,

14,122 08

Amount transferred to the fund of 1st

April, 1834, viz:

Proceeds of Lands and land

office fees,

44,673 16

Increase of county rates and levies,

182,875 84

Premium on the Merchants

and Manufacturers Bank

of Pittsburg, per act of

29th March, 1833,

59,797 89

287,546 89

Fund for 1834,

583,910 61

Interest on the same for one year,

29,195 53

Amount transferable from

the 1st of April, till the

31st October, 1834,

123,203 26

Probable amount receivable

from 1st November,

1834, till 1st April, 1835,

126,796 74

250,000 00

Probable fund for 1835,

863,106 14

Interest thereon for one year,

43,155 30

Probable amount to be transferred on the

1st April, 1836,

250,000 00

Probable fund for 1836,

1,156,261 44

Interest thereon for one year,

57,813 07

Probable amount to be transferred on the

1st April, 1837, calculating on the ex-

piration of the act of 1831, increasing

county rates and levies,

200,000 00

Probable fund for 1837,

1,414,074 51

Interest thereon for one year,

70,703 72

Probable amount transferable on the 1st

April, 1838,

50,000 00

Probable fund for 1838,

1,534,778 23

Interest thereon for one year,

76,738 91

Probable amount transferable on the 1st

April, 1839,

50,000 00

Probable fund for 1839,

1,661,517 14

Interest thereon for one year,

83,075 85

Probable amount transferable on the 1st

April, 1840,

50,000 00

Probable fund for 1840,

1,794,592 99

Interest thereon for one year,

89,729 64

Probable amount transferable on the 1st

April, 1841,

50,000 00

Probable fund for 1841,

1,934,322 63

Interest thereon from 1st April, 1841, till

January, 1842,

72,537 10

\$2,006 859 73

It thus appears that the common school fund will amount to a sum sufficient to produce \$100,000 annually between the 1st of April, 1841, and the 1st of January, 1842.

In the foregoing statement is included the sum of \$16,534 65, lately received from the Bank of Pittsburg, under the provision of the act for its re-charter, which will be added to the fund on the 1st of April next.

It is presumed that the sums appropriated to the school fund, are yet to be received under the provisions

of the act of 17th January, 1834, re-chartering the Bank of Pittsburg, and the act of 11th March, 1834, re-chartering the Schuylkill Bank, will reduce the period in the above calculation at least one year.

The commissioners have predicated the estimate on the supposition that the tax on real property will cease in the year 1836; but as much of the tax assessed in former years will not be paid into the treasury till 1837, they have estimated the payments in that year, from the above sources, and land office money at \$200,000.

With respect to the last clause of the resolution it would be difficult to make an estimate which could be relied upon with any degree of certainty. This would probably extend to the year 1850. In the mean time, such must be the inevitable changes in the finances of the commonwealth, as to make any estimate at this time unavailable for useful purposes. If \$75,000 be taken out of the school fund annually from 1835, it is presumed it would not produce an annual interest of \$100,000, before the above period, viz: 1850.

We have the honor to be,

Very respectfully, yours,

JAMES FINDLAY,  
DANIEL STURGEON,  
SAMUEL WORKMAN,

Commissioners of the School Fund.

From the Minor's Journal.

#### COAL TRADE.

The navigation is now closed for the season. We give below the quantity of Coal despatched to market in the years 1830 and 1834, from the different regions, together with the annual consumption of Coal for the last three years.

	1833.	1834.
Schuylkill	254,000	224,000
Lehigh	123,000	106,000
Lackawanna	111,000	40,000
	488,000	370,000
	370,000	
	118,000	

Decrease in the supply this year, one hundred and eighteen thousand tons.

The consumption of Anthracite Coal, as near as can be ascertained, was in

	Tons.	Annual Increase.
1831	177,000	
1882	329,000	152,000
1833	413,000	84,000

The supply this year only amounts to 370,000—to this must be added about 120,000 tons not consumed, remaining in the different markets on the opening of the navigation last spring, which will make the supply for the present year 490,000 tons. Should the increase of the consumption during the present year be only equal to last years, (and there is every reason to believe that it will be greater, in consequence of the article being cheaper,) every ton of coal in the market will be consumed by the opening of the navigation next spring.

From the Philadelphia Gazette.

#### PROCEEDINGS OF COUNCILS.

Thursday Evening, Dec. 18th, 1834.

#### SELECT COUNCIL.

Mr. Keating presented a petition from sundry citizens in relation to a Canal on the west side of the Schuylkill river, praying Council to appoint a committee to investigate the subject, before any measures are taken to oppose said project as now before the legislature.

Mr. Keating moved to refer the petition to a joint committee.

Council went into a committee of the whole, on the subject of the petition, Mr. Lippincott in the Chair.

Mr. Meredith said he would avail himself of the present occasion to say a few words in relation to the proceedings of Council, on the subject of the Western Canal, at the last meeting. On that occasion he had voted with the majority in ordering a remonstrance to be prepared to be laid before the legislature. Although he had voted as a member of Council, and not in his capacity as President, he had been singled out as the obnoxious member, and made the subject of severe comment in the newspapers. He knew of no reason why he should have been selected, as the special object of censure, but conscious that he had acted from correct motives, in giving the vote to which exception had been taken, it gave him no uneasiness.

Mr. M. considered this the proper place for explanation, and he should therefore state his views on the subject.

At the time that the subject of a Canal on the west side of the Schuylkill was urged upon the legislature last year, a petition on the subject was presented to Councils. On that petition a committee was appointed, and a report presented and acted upon. Councils believed that the Canal would be prejudicial to the interests of the city, and they therefore ordered a remonstrance against the measure to be laid before the legislature. At the present session of the legislature the same subject has been renewed, but until the appearance of the petition, just presented to Council, there has been no renewal of the application for the action of this body. It was for this reason that he had voted against the appointment of a committee at the last meeting. Then there was no application for a fresh investigation of the subject, and no information before Councils of a character calculated to change the views of the report of last year, and he was therefore content to leave the matter on the old ground. Now, however, a respectable application for a new investigation has been made, and he would therefore vote for the appointment of a special committee.

The motion for the appointment of a committee was agreed to, and Messrs. Keating, Price and Eyre appointed on the part of Select Council. Common Council concurred, and appointed Messrs. Chandler, Burke and Canby.

Mr. Lippincott, from the committee on the Girard Estates, reported an ordinance appropriating the sum of \$1,530, out of the monies in the hands of the Treasurer, belonging to the Girard Estates, and at the disposal of the corporation, to pay annuities under the will of Stephen Girard, for the year 1835. The ordinance was agreed to, and concurred in by Common Council.

Mr. Eyre, from the committee on Delaware wharves, made the annexed report. The item relating to Gregory Para, was agreed to—the other, on the subject of Chestnut street landing, was laid on the table.

The Committee on Delaware Wharves to whom the subjects were referred, respectfully report, That in the case of Gregory Para, relative to a claim of damages, occasioned by the regulation of Delaware Avenue, for a shed or small building, the rent of which was given him by Paul Beck, jr. Esq., are of opinion that said Gregory Para has no claim whatever on the City, inasmuch as the jury have already assessed the damages for the property as belonging to Paul Beck, jr. Esq.

They therefore desire to be discharged from the further consideration of the subject.

The Committee further report, that they have considered the application of W. J. Watson, on behalf of the C. & A. R. R. C., and Nathan Davidson on behalf of the N. C. & F. T. R. R. C. desiring a lease of Chestnut street landing for ten years to commence at the expiration of the present lease, are of opinion that it will not be conducive to the interests of the city to grant

the request of the applicants, being impressed with the belief that the rent paid for that property is too low, and that no city property should be leased for so long a time as they desire.

MANUEL EYRE,  
WM. H. KEATING,  
JOHN WIEGAND,  
HOS. LANCASTER,  
JOHN DARRAGH,  
MERRIT CANBY,  
Committee.

The President presented a communication from N. Gevelot, the artist employed by Councils to present a bust of the late Stephen Girard, stating that said bust is now finished, and asking Councils to view the same at his work-shop. On motion of Mr. Weigand the invitation was accepted.

Mr. Price, in his place, read an ordinance, providing for the issue of new certificates in all transfers of the funded debt of the corporation. The ordinance was read three times and passed. Common Council concurred, with a slight amendment.

Mr. Lippincott offered a resolution directing the Building Committee of the Girard College, to report to Councils, at the next meeting, a full statement of the present state of the College buildings, to be communicated to the Legislature. Agreed to. Common Council concurred.

Mr. Roach offered a resolution directing that 500 additional copies of Mr. Merriek's report on Gas be printed, and providing for their distribution among the members of Councils. Also directing that said report be published in one or more of the daily newspapers. adopted.

Mr. Lippincott offered a resolution instructing the Watering Committee to present to Councils the probable consequences to the Water works, at Fairmount, of the construction of a canal on the west side of the Schuylkill, upon the adoption of which, the ayes and nays were as follows:—

Ayes—Messrs. Lewis, Lippincott, Meredith, McCreehy, Price, Roach, Wetherill—7.

Nays—Messrs. Barclay, Eyre, Keating, Weigand—4.

#### COMMON COUNCIL.

The President presented a communication from the Board of Trustees of the University of Pennsylvania, inviting Councils to be present at the inauguration of the Provost of that institution, on Monday next. On motion the invitation was accepted. Select Council concurred.

Mr. Warner presented a petition from citizens residing in the vicinity of Chestnut and Sixth streets, praying for an enlargement in the openings to the culvert in that neighbourhood, the present openings being inadequate to carry off the water. Mr. Wetherill, in the Select Council, presented a petition of similar tenor. Referred to the paving committee, with power to act.

Mr. Price presented a petition praying for the repaving of the pavement in Race street, near the public square. Mr. Wetherill, in Select Council, presented an application of a like nature. Referred to paving committee.

Mr. Dunlap presented a petition praying for the construction of a culvert to carry off the water from the vicinity of Bread and Race streets, which have accumulated in large quantities. Mr. Wetherill, in Select Council, presented one of a like character. Referred to paving committee.

Mr. Chandler presented a petition in relation to the proposed canal on the west side of the Schuylkill, of a character similar to that presented in Select Council, by Mr. Keating. Referred to a special committee, as above stated.

#### *To the Select and Common Councils of the City of Philadelphia.*

The memorial of the subscribers respectfully represents—That there are now pending before the Legislature of Pennsylvania, applications from the city of Philadelphia, and various counties of the State, to incorporate a company to construct a canal on the west side of the Schuylkill.

The trade of the interior is so nearly connected with the city's prosperity that we should be cautious how we oppose efforts to increase and improve that trade, unless they are at variance with our own welfare. We believe it due to a subject so important to ourselves—to the counties who are urging it—and to the dignity of the Legislature, that Councils should carefully investigate the matter; and therefore respectfully desire that the Select and Common Councils will appoint a special committee for the purpose.

*Philadelphia, Dec. 1834.*

Dr. Paul offered a resolution directing the Board of Managers of the Wills' Hospital, to prepare a statement of their expenditures, up to January 1st, 1835, and present the same to the next meeting of Councils.

It was stated by Dr. Paul, that the greater portion of the expenditures up to the present time had been incurred for furniture and for completing the necessary arrangements of the house and grounds. These were, by the will and ordinance to be deducted from the principal of the Wills' fund. It was desirable now to have the fund permanently settled so that the expenses hereafter shall not exceed the income.

The resolution was adopted. In Select Council, it was postponed for the present.

The resolution from Select Council, in relation to printing extra copies of Mr. Merriek's report, elicited an animated debate, in which Mr. Williams, Mr. Warner, Mr. Gilder, Mr. Fraley, Mr. Chandler, and Mr. Dunlap, took part.

The clause in the resolution, relating to newspapers, was finally stricken out, by the casting vote of the President, when the resolution, so amended was adopted.

From the Gazette and Intelligencer.

#### PENNSYLVANIA IRON.

From a notice in the newspapers and some inquiries upon the subject, we find that M. B. Buckley, Esq. of Pottsville, has actually succeeded in puddling iron with Anthracite coal. The value of this discovery to the interests of the State, and the general advantages of the country, may be estimated by the fact that it will enable us to compete with foreign countries, in the manufacture of Rail Road iron. The saving in fuel alone will be from fifteen to twenty dollars per ton, and when we take into view the inexhaustible mines of iron and coal that run parallel to each other, in the Schuylkill region; we cannot but imagine other advantages that will completely settle the question of competition. We have then to estimate the extent of the contemplated public works in the country, and consider the ability this discovery will give to supply the demand, when the importance of such advantages may be clearly ascertained.

The quantity of iron required for a double track of Rail road, one mile in length, may assist in our calculations, and as it exceeds the estimate of all who are not actually engaged in laying it down, it may be interesting to those who view the prosperity of the country as a public blessing.

The Columbia road being partly constructed of iron of the same dimensions as the Liverpool and Manchester road, we will make the calculation upon the same data—

For one mile double track, the whole length would be,

7,040 yards at 35 lbs. per yard	246,400 lbs.
7,840 chairs 15 " each	117,600 "
13,360 spikes 4 " "	7,840 "
	<hr/> 371,840

or about one hundred and sixty-nine tons; this multiplied by eighty-one miles, would be 30,119,040 lbs. equal to 13,690 tons!

The Camden and Amboy road, is constructed with iron of different dimensions; the bars are fifteen feet long and weigh two hundred and thirteen lbs. For a double track one mile, it would require 1408 bars weighing 213 lbs. equal to 299,909 lbs.; this multiplied by sixty-one miles, the whole amount would be 18,293,644 lbs. without chairs or spikes; equal to 8,315 tons for the whole work.

The demand for rail road iron must be, in the present prosperous condition of the country, almost without limit. We therefore think Mr. Buckley, deserves the thanks of the community for his perseverance, and we sincerely hope he will be amply rewarded for his enterprize. To complete the manufacture of iron we want only the smelting with Anthracite Coal, and to induce our enterprising mechanics to pursue the subject; we think that our legislature would confer an everlasting benefit by offering a premium for the discovery.

#### PENNSYLVANIA.

From the Gazette and Intelligencer.

#### IRON.

Messrs. Editors—A late communication in your paper on the subject of "Puddling Iron with Anthracite coal," has induced me to inform the *public* that at least 25 tons of Iron were puddled at Phoenixville, in the year 1827—part of the Iron was made into Boiler Iron and proved to be first quality. The fact at that day was well known to many *really* scientific gentlemen in Philadelphia. They then had some slight cause to boast of the discovery, yet they did not make much noise about it because they well knew that Bituminous coal was equally as abundant in Pennsylvania as the Anthracite, and that although Anthracite could puddle Iron, *yet it never would or could supersede the use of Bituminous Coal.*

I could name some half dozen Pennsylvanians who for at least six years have been acquainted with the trifling knowledge that Anthracite coal could be used to puddle Iron.

Is the great noise which we now hear on this subject meant to get up another Anthracite mania? I believe it is—and advise those unacquainted in these matters to avoid the evident humbug.

#### A PENNSYLVANIA IRON MASTER.

To the Editor of the National National Gazette.

Sir: Knowing you to feel a deep interest in the advancement of every thing appertaining to the Sciences, and believing that the following account of my case will not prove uninteresting to the readers of your valuable journal, I hereby send it to you for publication:

I am 70 years of age, and have been afflicted with the symptoms of Stone in the Bladder for about three years, and upon several occasions during that period I passed a considerable quantity of calculous matter, of a dark color and having a granulated appearance. I am of the opinion that these calculi formed in the kidney in consequence of a violent injury which I received upon that part many years since from a fall from my horse; they descended into the bladder, and finally formed a lodgment near to its neck, and produced the usual train of distressing symptoms attendant upon this terrible disorder.

Having read the account of Dr. J. Randolph's cases

of Lithotripsy published in the last number of the American Journal of the Medical Sciences, I determined to visit Philadelphia and place myself under his care, in order to submit to this operation. I arrived in your city on the 26th of November, and on the 3d of this month, (December), Dr. Randolph performed the first operation in the presence of my son, Dr. William Fahnestock. Having introduced the instrument into my bladder, the Doctor succeeded in a few minutes in catching the stone and crushing it, which he repeated three several times and then withdrew the instrument. I cannot say this operation did not cause me pain. I was only confined, however, to my bed for a few hours, and did not lose a single meal in consequence of it. I continued for several days after the operation to pass out fragments of stone, and felt so much relieved that I thought I was quite cured. Dr. Randolph however assured me this was not the case, and on the 8th inst. he performed another operation, which was attended with similar results. I now feel entirely free from all the painful symptoms which I so long endured, and believe myself rid of the complaint, inasmuch as I have sounded my bladder very carefully and cannot detect any fragment remaining.

Very respectfully, your obedient servant,

SAMUEL FAHNSTOCK, M. D.

December 16, 1834. of Lancaster, Pa.

[ From Poulson's American Daily Advertiser.

#### UNIVERSITY OF PENNSYLVANIA.

#### INAUGURATION OF THE PROVOST.

The ceremonies of the Inauguration of the Rev. Doctor LUDLOW, as Provost of the University, were witnessed on Monday, the 22d Dec. inst. by a very numerous assemblage, at the Musical Fund Hall, in Locust street.

At eleven o'clock a procession was formed at the University, consisting of the Students of the Collegiate and Medical Departments, the pupils of the University Schools, the Faculties of Arts and Medicine, the Trustees of the University, the Judges of the United States and State Courts, the Committee of the Legislature, the Select and Common Councils of the City, the Rev. Clergy, &c.

The procession passed to the Hall, where the exercises were held. They were opened by a prayer from the Right Rev. Bishop Onderdonk. The Chairman of the Committee of Inauguration, JOHN SERGEANT, Esq., addressed the audience in relation to the present condition and future prospects of the University; he then introduced to them the Rev. John Ludlow, D. D. as Provost of the University of Pennsylvania. The Provost then delivered his inaugural address, and the exercises were closed with prayer by the Rev. Albert Barnes. The greatest attention and most lively enthusiasm were manifested throughout the exercises by the audience, who filled the spacious room where they were held.

A copy of the Inaugural Address of Dr. Ludlow, has been requested for publication by the trustees of the University.

By order of the Board, the introductory statement by Mr. Sergeant is herewith published as follows:

"Friends and Fellow Citizens,

In giving an extended invitation to our fellow citizens, to participate in this day's ceremony, the trustees of the University have been influenced no less by a sense of duty to the public, than by the hope that from every occasion like the present, there may arise a renewed interest on the part of the community in the institution committed to our charge. We are but trustees.—We have not founded nor endowed the University.—We derive from it no peculiar advantage. Those of us who have children to be educated, may participate in its benefits. But this is a privilege we enjoy only in

common with our fellow citizens, and upon the same terms with them, and it is obvious that our individual portions of it must necessarily be very small. We may have our share, too, of the gratification to be derived from the character of the institution. But the lustre of its reputation will be spread over the whole community, and its blessings be felt by all, in the general diffusion of sound and wholesome instruction.

We are gratified at the presence of so large and intelligent an audience.

We are gratified also, at being able to announce to them, that the professorships in the Collegiate Department are now all filled, and its organization complete. Two of them, it is known, were for some time vacant. It is but justice to the three professors who remained, to acknowledge, that they cheerfully took upon themselves the arduous labor of performing the duties of the vacant chairs, in addition to their own, until a selection could be made of suitable persons to fill them; and such was their successful diligence in this extraordinary task (far too severe to have been long continued) that no student, it is believed, experienced the slightest disadvantage from the want of the proper complement of teachers.

Some time ago, the choice was made of a professor of Mathematics. Mr. Courtney's qualifications for that chair, were vouched to the entire satisfaction of the Board, before he was chosen. They have since been tested by experience, and the Board are happy to be able to say that their expectations, high as they were from the assurances they had received of this gentleman's acquirements and capacity for teaching, have not been disappointed.

They have now chosen a Provost, selected after diligent inquiry, but at last with a strong confidence, that he is eminently fitted for that interesting and responsible station.

The next session will, therefore, open with the Faculty of Arts completely organized, and every chair in it filled to the entire satisfaction of the Board. Without making any comparison, we may be allowed to say, that we could not in any of them desire a change.

If time permitted, we might add, that the course of instruction is as full as the period ordinarily assigned for collegiate education will allow—that the teaching is thorough and exact—and that no institution was ever in a happier state of discipline than the Collegiate Department of the University of Pennsylvania now is. The discipline is efficient without harshness. The business of instruction goes on, and order is maintained, as if from the spontaneous co-operation of every individual, pupil as well as teacher. Of this interesting statement, no better proof can be required than the fact—which we have equal pride and pleasure in announcing—that during the whole of the session which has just ended, not a single case has occurred of corrective discipline, of sufficient magnitude to be reported to the Board, or even to be communicated to a parent. It is a fact undoubtedly very honourable to the Faculty of Arts, and very honourable, also, to the youth who compose the Collegiate classes. We sincerely congratulate their parents and friends upon the hope it justifies.

What then have we to wish? But one thing more; that one, however, of vital importance—that our fellow citizens will look into the condition of the Institution, as it now is; that they will examine its real merits as a seminary of learning, and if they find it to be worthy (as we truly believe they will) that they will extend to it their active support and aid. In that case, smile upon it—cheer it—take an interest in it—embrace it in your feelings, as a concern of your own; recommend it to others—if need be, contribute from your means to its enlargement and extension; do all you can to give to it the character which ought to belong to an institution that bears the name of the UNIVERSITY OF PENNSYLVANIA. With such aid we are sure of success.

It remains to attend to the object for which we are here assembled.

In obedience to the directions of the Board of Trustees, I have the honor to introduce to you, the Rev. Doctor John Ludlow, as the Provost of the University of Pennsylvania."

Upon the re-assembling of the Board of Trustees, at their room in the University, the strongest gratification was manifested at the exercises of the day, and the conduct of all engaged in them. They expressed, especially, their high sense of the excellence of the address delivered by the Provost. With an unanimous vote of thanks, they directed that the Provost should be asked for a copy for publication. This has been furnished, and, together with the prayers of the two Reverend Trustees, who officiated upon the occasion, will be speedily published in a pamphlet.

In closing this brief account, it is due to the young gentlemen, Students in the several departments and schools, to add, that their department throughout, was distinguished by its correctness, and by an intelligent attention to the exercises of the day.

The whole ceremony, indeed, and the interest taken in it by our fellow citizens, are an earnest of success, in the efforts to raise up the Institution to its proper elevation, which cannot be too highly appreciated.

The following is a statement of the number of prisoners now in confinement in the city and county of Philadelphia.—*Poulson*.

	Male.	Female.
Cherry Hill Prison,	217	1
Walnut street,	270	35
Arch street,	170	81
House of Refuge,	104 boys.	64 girls.
	761	181
	181	
Total,	942	

## THE REGISTER.

PHILADELPHIA, DECEMBER 27, 1834.

The present number closes the fourteenth volume of the Register, and complete seven years of our editorial labors. The Index will be furnished with an early number of the next volume.

To those gentlemen who have thus far patronized our work we tender our obligations. The aid of others who have not yet enrolled themselves among its patrons is needed to insure its continuance, and is respectfully solicited. Entire copies of the work may still be obtained neatly bound at three dollars per volume. The Register is published weekly in numbers, forming two volumes per annum, at five dollars per year.

During the previous week the weather was severely cold, so that on one day the Schuylkill was frozen across, and the Delaware was obstructed by ice above Bordentown—both for a short time. Since then the weather has been more moderate, and the navigation of both rivers perfectly free. Yesterday morning a snow storm however commenced, and our streets and roofs are covered, and the weather is very cold.

100-100-100

B.A. Mitchell

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